

**STAKEHOLDERS' SUBMISSION
TO THE UNITED NATIONS COMMITTEE
AGAINST TORTURE**

22 June 2019

HUMAN RIGHTS FORUM BANGLADESH (HRFB)

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Acronyms

AD	Appellate Division of the Supreme Court of Bangladesh
ASI	Assistant Sub-Inspector
ASK	Ain o Salish Kendra
BNP	Bangladesh Nationalist Party
CAT	Committee against Torture
CIDTP	Cruel, Inhuman or Degrading Treatment or Punishment
CrPC	Code of Criminal Procedure 1898
DLR	Dhaka Law Reports
DMCH	Dhaka Medical College and Hospital
GoB	Government of Bangladesh
HCD	High Court Division of the Supreme Court of Bangladesh
HRC	Human Rights Committee
ICT	Information and Communication Technology
KII	Key Informant Interviews
LEAs	Law Enforcement Agencies
NGO	Non-Governmental Organisations
NHRC,B	National Human Rights Commission, Bangladesh
OMCT	World Organisation Against Torture
PC	Penal Code 1860
RAB	Rapid Action Battalion
SC	Supreme Court
UN	United Nations
UNCAT	UN Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment.

Executive Summary

On 5 October 1998, Bangladesh acceded to the United Nations Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). However, Bangladesh has not yet submitted its State Report under Article 19 of the UNCAT. The United Nations' Committee against Torture (CAT) decided to review Bangladesh's compliance with the Convention in July 2019. Accordingly, on behalf of a coalition of 20 Bangladeshi citizens' organisations, this Stakeholders' Report is submitted before the CAT for review.

In Bangladesh, the Constitution has guaranteed prohibition on torture and cruel and degrading behaviour and punishment since 1972, long before the adoption of UNCAT. However, routine reports continue to be made of torture and ill-treatment, particularly in the context of custodial situations where law enforcement agencies seek confessional statements following arrest or detention. Emblematic cases in the past 20 years, which have provoked legal responses, include the custodial killing of Rubel, a university student, in 1998, the victims of the co-called 'Operation Clean Heart' in 2002-3, the shooting of Limon in 2011 or the torture of Shahadat in 2019.

The High Court Division of Supreme Court, following Rubel's killing, issued fifteen directives to prevent misuse and abuse of the power by the members of Law Enforcement Agencies (LEAs). Subsequently in 2013, the Torture and Custodial Death (Prevention) Act (Anti-Torture Act) – was also adopted. But these remedies are not routinely complied with. Since the enactment of Anti-Torture Act till date (January 2014- May 2019), 1335 persons were reportedly victims of extra-judicial killing by LEAs due to crossfire, torture or shootout.¹ Moreover, 348 prisoners (both under-trial and convicts) reportedly died in jail custody till date (January 2014-May 2019).² It is in this context of the gap between law and practice as well as the gap between international and national standards that this Stakeholders' Report on UNCAT has been prepared.

Apart from the Constitution, several other laws penalise conduct amounting to torture. In 2013, the term 'torture' finally received a statutory definition under Section 2(6). If read with Section 13 of the Anti-Torture Act, which defines the offences, the Act does not even exclude torture by any private individual without having any official capacity or consent, even at home. Thus, it includes 'unofficial torture', i.e. not inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, going beyond the international obligation. Such a wide definition definitely demands appreciation; but practice has fallen far short of the expectation. Rather, the security services were prompt enough to submit a proposal within a span of two years before the home Ministry to exclude the crucial law enforcement agencies such as the Rapid Action Battalion (RAB), Criminal Investigation Department, Special Branch and Detective Branch from the jurisdiction of the law and also to limit the definition. Such an unfortunate move from the law enforcement agencies clearly shows that the attitude of the public officials towards the custodial torture has not changed at all.

The Act does not contain any definition of cruel, inhuman and degrading treatment, or punishment and extra-judicial killing is absolutely outside ambit of this Act.

¹ Documentation Unit, ASK. <<http://www.askbd.org/ask/category/hr-monitoring/death-by-law-enforcement/>>

² Documentation Unit, ASK. <<http://www.askbd.org/ask/category/hr-monitoring/death-in-jail-custody/>>

Other laws criminalise acts amounting to torture, including as the Bangladesh Penal Code of 1860 (BPC), the Criminal Procedure Code of 1898, the Police Act of 1861, the Dhaka Metropolitan Police Ordinance 1976. In practice, there have been very few instances of action taken with regard to complaints of torture. Rather, Section 167 of the CRPC allows a Magistrate to place a suspect in interrogative custody, known as remand, during which the suspect could be questioned without his or her lawyer present. Most custodial abuses reportedly occur during remand. No specific law exists that either outlines, or provides any guideline regarding interrogation rules, methods and procedures for questioning. This lack of provision results in giving the LEAs a leeway to get away with their methods to get the confession/admission out of the accused through torture. Many methods of interrogation which, in the opinion of the Committee against Torture, amount to torture are regularly used for interrogation by the Bangladesh Police. Moreover, custodial safeguards are often denied; these include the rights to access to lawyer, access to medical personal, access to information as to arrest .

The Judiciary has been separated from the executive but has not yet become independent. Especially in case of lower judiciary, judges and magistrates reportedly enjoy little independence and serve according to the will of the executive. Public Prosecutors 'appointments are highly politicized.³ Frequent government interference with lower court proceedings on political grounds and their use as a political weapon through undue favour in promotions and transfers, adjournment of hearings, release of accused persons, and withdrawal of cases on political grounds are rampant. The higher judiciary often played its due role against extra-judicial killings or torture and has passed necessary orders to secure justice. But in recent times, it has also been felt that the Judiciary has been failing to play the appropriate role in protecting the citizens when the political activists are involved. The National Human Rights Commission rarely takes a strong stance regarding alleged human rights violations by state security forces.

HRFB strongly recommends to:

1. Revise the definition of 'torture' in the Anti-Torture Act to expressly incorporate gender-based violence including rape, sexual harassment, and other violence as a form of torture;
2. Revise the definition of 'law enforcement authority' in the Anti-Torture Act to include the Department of Narcotics Control, Anti-Corruption Commission and other security forces;
3. Amend the Anti-Torture Act to define and criminalise cruel, inhuman and degrading treatment or punishment, in consistency with the Constitution and with UNCAT;
4. Incorporate a clear definition of 'custody' in the Anti-Torture Act;
5. Incorporate in the Anti-Torture Act a clear definition of 'extra-judicial killings' as a form of torture while the victim is in the custody and the compensation scheme provided for under the Anti-Torture Act by making it mandatory and to ensure that the victim and their family members secure redress;
6. Incorporate a provision in the Anti-Torture Act whereby the consequence of not completing the investigation reports within the prescribed time limits is mentioned;
7. Incorporate a provision in the Anti-Torture Act for the protection of witnesses;
8. Amend the Anti-Torture Act by introducing provisions for extra-territorial jurisdiction particularly on-board a ship or aircraft of Bangladesh in accordance with Article 5 (1) of UNCAT;

³ Ibid.

9. Amend the Anti-Torture Act to provide a time limitation for filing appeals by the perpetrators;
10. Rules should be promulgated under Section 20 of the Act;
11. Amend the Anti-Torture Act to reflect customary international law, in the form of inclusion of superior or command responsibility (all 3 elements), is needed, in order to match the international standards;
12. Undertake public education programme to ensure greater awareness of the Anti-Torture Act;
13. Sensitise public officials on their obligations to prevent and punish torture and ensure training and human rights education for them (Article 10);
14. Organise training programmes for judges, public officials, prosecutors, forensic doctors and medical personnel and NHRC staff members, who deal with arrested and detained persons;
15. Ensure complete separation of judiciary from executive and influence of other organs of the state;
16. Strengthen watchdog institutions like the NHRC,B and ensure adequate resources and capacity of members so that they can operate independently and effectively;
17. Responding to the pending requests and ensure visit to Bangladesh of the Special Rapporteur on Torture and CIDTP;
18. Establish an independent Commission of Inquiry to conduct investigations on reported incidences of torture since signing of the Convention and to make recommendations for reforms needed, to bring to justice those responsible and to ensure redress to victims.

I Introduction

This Stakeholders' Report is submitted to the Committee against Torture (CAT) on behalf of a coalition of 20 human rights and development organisations, the Human Rights Forum Bangladesh (HRFB). It focuses on the substantive provisions of the United Nations Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)⁴ and the status of its implementation in Bangladesh, i.e. the extent to which Bangladesh as a state respects, protects or fulfils its obligations under UNCAT.

On 5 October 1998, Bangladesh acceded to UNCAT. Under Article 19 of UNCAT, Bangladesh's report was due on 4 November 1999, within one year of accession. For the last 20 years, Bangladesh did not submit its initial State Report. In this context, the Committee decided to review Bangladesh's compliance with the Convention on 31 July 2019. To provide information from the ground, HRFB has produced this report to focus on citizens' perspectives and allegations of torture and ill-treatment and the implementation status of UNCAT. The report aims to highlight the overall situation in Bangladesh, to identify gaps in the respective laws and their implementation, and to provide recommendations to the state for better compliance and implementation of UNCAT.

II Methodology

This report is based on a desk review of desk reports, including of reports from member organisations of HRFB, reports from National Human Rights Commission of Bangladesh (NHRC,B), and news reports. In addition, information collected from Key Informant Interviews (KIIs) as well as from consultation workshop with human rights activists and lawyers, have also been included in this report to get a better insight of the situation.

This report outlines international standards, followed by national standards. These two standards are then juxtaposed to identify the gap between international and national legal regimes. This is followed by an in-depth scrutiny of the gap between law and practice. The report concludes with recommendations for law reform and to ensure effective law enforcement for protection against torture and ill-treatment.

III Challenges

There were certain challenges faced in drafting this report, such as the sensitivity of information, restricted access to data and the unwillingness of the victims to be identified to avoid further risks to their security and safety. News reports were inadequate to illustrate a full picture of the incident. The report cites cases referred to in reports of HRFB member organisations or in the news reports.

⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85.

IV Context

On 23 July 1998, at around 4 pm, a microbus with members of the Detective Branch of Police came to the house of Shamim Reza Rubel (AGE), a student of Independent University Bangladesh. Within minutes, they started beating him up indiscriminately, accusing him of possessing illegal weapons, and then took him away. At the office of the Detective Branch in Minto Road, the torture continued until Rubel, reportedly ‘confessed’ that there were indeed weapons in his house. They brought him back. When they found no weapons and Rubel admitted that he lied just so they would stop the beating, their fury knew no bounds. Rubel’s brother described how one of the men struck Rubel on the head, another one kicked him so hard that he hit the electric pole. Then, they dragged him back into the microbus alone, despite the desperate pleas of the young man’s father who asked them to take him along with his son. The body was returned with marks of torture on his body. The post mortem report stated that Rubel died of haemorrhage and shock due to severe beating, which was definitely a clear case of custodial murder.⁵

In 2002, the Metropolitan Sessions Judge’s Court, Dhaka sentenced 13 of the accused (in the case filed by Rubel’s father), including Assistant Commissioner Akram, to life imprisonment, and Mukuli Begum, another accused, to one year in prison. But in 2011, the judgment was challenged in appeal. The HCD in May 2011, acquitted Akram, Mukuli Begum, and eight others, on the grounds that the allegations brought against them had not been proved beyond reasonable doubt.

In the year of Rubel’s killing, in October 1998, Bangladesh acceded to UNCAT. Rubel’s killing had in the meantime prompted the filing of public interest litigation by human rights groups and other families of torture victims. This led to the High Court Division (HCD) issuing directives on 7 April 2003, in the case of *BLAST and others v Bangladesh and others*,⁶ to impose safeguards to restrain the use of powers of arrest without warrant, to stop the arbitrary arrests of citizens on mere suspicion and also on the way the arrestees were to be treated while in custody. To remove the inconsistencies in the law, the HCD made seven sets of recommendations and directed the government to amend the law to remove these inconsistencies within six months. The HCD also provided fifteen directives to prevent misuse and abuse of the power by the members of Law Enforcement Agencies (LEAs) under these provisions. One of the HCD directives provides that an accused must be interrogated by the investigation officer in a prison room instead of a police interrogation cell, until the cell has a glass wall or a wall with grills on one side to make the accused visible to the lawyer or relatives. The Court also ruled that the draconian Sections 54 and 167 of the CrPC that allow arrest on suspicion and subsequent remand were not consistent with the fundamental rights guaranteed by the Constitution.

Despite such directives from the Court, these safeguards have not been regularly invoked in the years since, and, therefore, have been largely ineffective. Incidents of torture and custodial death by LEAs have been taking place in a regular manner.

Meanwhile, the so-called ‘Operation Clean Heart’ started on 16 October 2002 through an order and ended on 9 January 2003. During that time, around 24,023 army personnel and 339 navy

⁵ Aasha Mehreen Amin, ‘Remembering Rubel’ *The Daily Star* (Dhaka, 22 May 2016) <<https://www.thedailystar.net/op-ed/remembering-rubel-1227520>> accessed 16 June 2019.

⁶ 55 DLR (2003) 363. <<https://www.blast.org.bd/content/judgement/55-DLR-363.pdf>>

personnel along with paramilitary Bangladesh Rifles (BDR), police and Ansar joined the operation aiming ‘to quell countrywide violent crimes’.⁷ As many as 57 people died in custody and hundreds sustained injuries following torture during the drive, triggering national criticism and protest.⁸ The Government, however, confirmed only 12 deaths and claimed that all the victims ‘died of heart attack’ in hospital after being handed over to police.

Following this drive, and in the absence of any parliament session, the President first promulgated an indemnity ordinance on 9 January 2003, just prior to the start of pulling out troops involved in the drive. Later the Government, on 24 February 2003, enacted the Joint Drive Indemnity Act 2003 which purported to indemnify all concerned for their acts during Operation Clean Heart.⁹

In another incident, police arrested Shaibal Saha Partha from his sister’s house on 26 August 2004, on suspicion of sending an email with threats to assassinate the then opposition leader Sheikh Hasina. Partha was later implicated in two cases -- one connected to an allegation of making a death threat and the other over regarding the grenade attack. According to him, police kept him blindfolded for seven consecutive days in a place he could not identify. They poured water into his nose and mouth time and again. He felt that his breathing would stop any moment and he would die. Police tried to get him to make a confession. He repeatedly told them that he knew nothing about it, but they tortured him even more.¹⁰

Besides, torture in the forms of extra-judicial killing and enforced disappearance increased in an alarming manner. Rapid Action Battalion (RAB), formed in the year 2004 replacing the Rapid Action Team which was formed in January 2003, was hugely criticised for its alleged involvement in extra-judicial killings, torture and enforced disappearance.¹¹ A writ petition was submitted by three rights organisations, ASK, BLAST and Kormojibi Nari, in the year 2009, seeking remedies in respect of allegations of extrajudicial killings by RAB. The case is still pending for hearing.¹²

The continuation of such violations can be traced to the incident of Limon Hossen, a 16-year-old Higher Secondary School Certificate (HSC) student in Jhalakathi district. On 23 March 2011, Limon was asked by his mother to bring the family’s cattle in from the bank of the Sondha river where they were grazing. At around 4pm, when Limon was on his way home, a team of the RAB-8 stopped him. Md Lutfor Rahman, Deputy Assistant Director of Crime Prevention Company No 01 of RAB-8, based in Barisal city, asked Limon’s name and started beating him and accusing him of being a ‘terrorist’. Limon, who paid for his schooling by working part-time at a local brick factory, said that he was a student and gave the name of his college. Md Lutfor and his colleagues refused to accept Limon’s statement and pointed a gun at him. Limon cried

⁷ Julfikar Ali Manik, ‘Operation Clean Heart to be opened’ *The Daily Star* (Dhaka, 08 June 2009) <<https://www.thedailystar.net/news-detail-91649>> accessed 16 June 2019.

⁸ Editorial, ‘A bad law scrapped’ *The Daily Star* (Dhaka, 15 September 2015) <<https://www.thedailystar.net/editorial/bad-law-scrapped-143284>> accessed 16 June 2019.

⁹ Staff Correspondent, ‘Custodial Torture, Death: Cops want bail provision for the accused’ *The Daily Star* (Dhaka, 09 January 2018) <<https://www.thedailystar.net/frontpage/custodial-torture-death-cops-want-bail-provision-the-accused-1517044>> accessed 16 June 2019.

¹⁰ Shariful Islam, ‘Testimony to terror sponsored by state’ *The Daily Star* (Dhaka, 21 August 2015) <<https://www.thedailystar.net/frontpage/testimony-terror-sponsored-state-130054>> accessed on 16 June 2019.

¹¹ See for details, Annex 1, 2, 3.

¹² Writ Petition No. 4152 of 2009 <<https://www.blast.org.bd/issues/trial/235>>

out in fear and requested the RAB personnel not to kill him. Md. Lutfor shot him nonetheless, pointing the gun at his left thigh and Limon fell on the ground. When he regained consciousness, Limon found himself at the Sher-e-Bangla Medical College Hospital in Barisal city. Later that night, Md Lutfor filed two criminal cases (No. 10 and 11) with the Rajapur police station accusing Limon and seven others of attempted murder and obstruction of the law enforcing agencies in the discharge of their duties, and claiming the shooting occurred during an encounter between a “group of terrorists” and RAB-8.¹³

Several human rights organisations raised their voice to ensure justice for Limon. Later the National Human Rights Commission of Bangladesh (NHRC,B) took up this case. A common voice was raised to condemn the incident and demand action.

In this backdrop, civil society members and human rights organisations demanded the enactment of a comprehensive law to address these human rights violations. This demand also related to Bangladesh’s obligation under UNCAT to enact a law criminalising all acts of torture. Parliament thereby enacted the Torture and Custodial Death (Prevention) Act, 2013 (Anti-Torture Act) on 27 October 2013.

Since its enactment till April 2019, 1297 persons were reportedly victims of extra-judicial killing by LEAs due to crossfire, torture or ‘shootouts’.¹⁴ Moreover, 346 prisoners (both under-trial and convicts) have reportedly died in jail custody.¹⁵ Few cases have however been filed to date. Many victims or their family members appear too frightened to seek remedies under the Anti-Torture Act.

The Constitution has prohibited torture and ill-treatment since 1972, long before the adoption of UNCAT. Articles 31, 32 & 35(5) of the Constitution guarantee the rights to life and liberty, and freedom from torture, or cruel, inhuman or degrading treatment or punishment are guaranteed for all. However, within Bangladesh, reports of violations continue to be made, particularly in the context of custodial situations where LEAs allegedly seek to obtain confessional statements from the persons who are arrested or detained. The abuse of powers of arrest without warrant under Section 54 and placing the accused in police custody under Section 167 of the CrPC has resulted in violations of fundamental rights to fair trial, and freedom from torture or cruel, inhuman or degrading treatment. The HCD’s fifteen point directives to prevent misuse and abuse of their powers by the members of LEAs have not been regularly complied with. However, consecutive governments have chosen to ignore these directives on prevention and punishment of abuses of individuals taken into custody.

Even in 2019, incidents similar to those of Rubel or Limon continue to be reported. Shahadat Hossain Shyamol, 20, an electric mechanic in Keraniganj Aatibazaar, Dhaka was shot in the leg and then arrested by police. On 14 March 2019, he and some friends were crossing the Kamarkanda Police check post. They stopped when signalled to do so by the Police. A Police Constable, Saiful, allegedly shot Shahadat in his right foot, giving no warning. Three days later,

¹³ Shaheen Mollah, ‘Rab firing questioned’ *The Daily Star* (Dhaka, 07 April 2011) <<https://www.thedailystar.net/news-detail-180810>> accessed 16 June 2019; Staff Correspondent, ‘Limon’s mother sues 6 RAB men’ *The Daily Star* (Dhaka, 11 April 2011) <<https://www.thedailystar.net/news-detail-181278>> accessed 16 June 2019

¹⁴ Documentation Unit, ASK. <<http://www.askbd.org/ask/category/hr-monitoring/death-by-law-enforcement/>>

¹⁵ Documentation Unit, ASK. <<http://www.askbd.org/ask/category/hr-monitoring/death-in-jail-custody/>>

Shahadat found himself implicated in a criminal case for allegedly obstructing law enforcers from carrying out their lawful duty; he was also handcuffed during treatment.¹⁶

In sum, although the Constitution and other laws guarantee protection against torture and other ill-treatment punishment, reports of such incidents and impunity for the perpetrators continue to persist.

V Obligation, Implementation and Application Status of CAT in Bangladesh

1. Definition of Torture other Cruel, Inhuman or Degrading Treatment or Punishment (CIDTP) (Articles 1 and 4)

Legislative Definition

Since independence in 1972, the Constitution of Bangladesh has guaranteed protection from torture and other cruel, inhuman or degrading punishment or treatment for any person within its territory.¹⁷ This protection is guaranteed as a fundamental right, derogation from which is not permissible except under certain circumstances such as, in case of defence forces, prisoner of wars or trial for war crimes etc.¹⁸ These reflects Bangladesh's endorsement of and commitment towards prohibiting torture.

Several laws as has been specified in the later sections indirectly penalised conduct amounting to torture. However, neither the Constitution nor any other statute defined torture. It was twenty-six years after independence when Bangladesh acceded to UNCAT on 05 October 1998. However, being a dualist country, Bangladesh still required a national legislation to give effect to this definition.

In 2013, the term 'torture' finally received a statutory definition, in the Anti-Torture Act. The preamble states that this law was enacted in line with the state's obligations under UNCAT. Section 2 of the Anti-Torture Act defines 'torture' along with the terms 'complainant', 'convention', 'government official', 'law enforcement agencies', 'security forces', 'custodial death', and 'injured or affected persons'. Section 2(6) of the Anti-Torture Act adopts a definition largely similar to that in Article 1 of the UNCAT. It is defined as any physical or psychological act that results in suffering. Moreover, the following acts also amount to torture:

- collection/extortion of information or confession from any person or about another person;
- punishment of the suspected person or any accused person;
- intimidation of any person or any other person through him;

¹⁶ Editorial, 'Is Shahadat's case a repetition of Limon's ordeal' *The Daily Star* (Dhaka, 05 March 2015) <<https://www.thedailystar.net/editorial/news/shahadats-case-repetition-limons-ordeal-1738627>> accessed 16 June 2019.

¹⁷ Constitution of Bangladesh 1972, art 35(5).

¹⁸ Constitution of Bangladesh 1972, art 47.

- incitement or provocation of someone, based on discrimination of any kind, by or with the consent and authorisation of a government official.¹⁹

The UN Special Rapporteur on Torture, regarding the notion of ‘with the consent or acquiescence of a public official,’ noted that ‘under international law, this element of the definition makes the State responsible for acts committed by private individuals which it did not prevent from occurring or, if need be, for which it did not provide appropriate remedies.’²⁰ Therefore, States must be held responsible not only for intentional acts, but also for negligence. However, if Section 2(6) is read with Section 13 of the Anti-Torture Act, which defines the offences, the Anti-Torture Act does not exclude torture by any private individual without having any official capacity or consent, even at home. For example, if the Head of a family inflicts torture on his/her housemaid for collecting information, or if a school teacher punishes a student for his misconduct, may well be construed as ‘torture’ under the Anti-Torture Act. Thus, going beyond the international obligation it includes ‘unofficial torture’, i.e. not inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The definition of public official also appears to be wide enough to include all types of public officials. However, even though the definition tried to incorporate the international concept of torture within its definition, even, it remains vague and incomplete for the following reasons:

- Gender-based violence including rape, sexual harassment as a form of torture is missing from the definition.²¹
- The definition of LEA, as defined in section 2(4) of the Act, does not include ‘all’ LEAs.²² This could create a barrier to a remedy in cases of allegations being brought against the Department of Narcotics Control, Anti-Corruption Commission and other security forces engaged in the enforcement of laws and their officials. They should be included in the definition. Moreover, giving them a separate definition, not specifically under the definition of public official, makes the scope of filing cases thereunder, difficult.
- The Anti-Torture Act does not specifically define or criminalise cruel, inhuman and degrading treatment, or punishment.
- The definition fails to include the physical or mental pain undergone by the imprisoned awaiting trial or facing interrogation in police remand.²³
- The Anti-Torture Act does not define the offence of extra-judicial killings, thereby omitting such offence from the purview of the act.

Moreover, in March 2015, the security services reportedly submitted a proposal to the Ministry of Home Affairs to amend several provisions of the Anti-Torture Act, which, if accepted, would defeat its purpose and that of CAT.²⁴ The proposal includes the following:

¹⁹ Unofficial Translation of the text by HRFB.

²⁰ UNCHR ‘Report of the Special Rapporteur, Sir Nigel Rodley, 2000/43’ (14 Nov 2000) UN Doc E/CN.4/2001/66/Add.1 <<http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2001/66/Add.1&Lang=E>>.

²¹ BLAST, ‘Review of the Torture & Custodial Death (Prevention) Act, 2013’ (December 2015) <[https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20&%20Custodial%20Death\(P%20revention\)%20Act,%202013.pdf](https://www.blast.org.bd/content/publications/Review%20of%20The%20Torture%20&%20Custodial%20Death(P%20revention)%20Act,%202013.pdf)>.

²² *ibid.*

²³ *ibid.*

- to omit from the definition of ‘law enforcement agency’ the Rapid Action Battalion (RAB), Criminal Investigation Department, Special Branch and Detective Branch.
- to limit the definition of torture to ‘acts or omissions which cause physical pain to any person for the purpose of obtaining information or a confession’, excluding the other purposes – punishment, intimidation, coercion and discrimination – as well as causing ‘mental pain’.

These two proposals are not compatible with Article 1 of the UNCAT which provides a comprehensive definition of torture binding upon all parties to the Convention. If so amended, the entire Act would be rendered largely futile and it would exclude the very actors frequently alleged to have resorted to torture

2. Preventing Torture and CIDTP

Legislative, administrative, judicial or any other effective measures to prevent acts of torture and CIDTP and its criminalisation in Bangladesh (Article 2, 4 and 16)

The Anti-Torture Act criminalises torture.²⁵ It has made torture punishable,²⁶ by imprisonment for a minimum of five years, or payment of fine of a minimum of 50,000 taka or both. The aggrieved persons, on the conviction of the accused, will also be entitled to compensation amounting to 25,000 taka.²⁷ If the torture results in death, then the punishment is more severe, to reflect the gravity and severity of the crime: those convicted will be punished with imprisonment for life, or a fine of minimum 100,000 taka, or both. The victim is also, in the context of death caused by torture, entitled to compensation of 200,000 taka.²⁸ The Act also provides for punishment for those who are complicit in torture: those who attempt to commit or assist or provoke torture, or conspire in committing torture, face punishment of minimum two years imprisonment, or a fine of minimum 20,000 taka, or both.²⁹ The fine and compensation must be submitted to the court within 14 days in order to file an appeal.³⁰

Apart from the Anti-Torture Act, there are a few other laws which criminalise acts amounting to torture, although the term is undefined. The Penal Code 1860,³¹ criminalises wrongful confinement of a person to extort from him/her or from any other person interested in him/her any confession, which may lead to the detection of an offence or misconduct. Sections 323 and 324 of the Penal Code criminalise acts causing hurt and grievous hurt to any individual. Acts of ‘criminal force’ and ‘assault’ are also criminalised under Section 352, unless caused in consequence of grave and sudden provocation. The punishment is with imprisonment for a term which may extend to three months or with fine which may extend to 500 taka or with both.

²⁴ World Organization against Torture (OMCT) and Odhikar, ‘Bangladesh: Global anti-torture movement alarmed over possible licence to torture’ Joint Press release (Geneva-Dhaka, 27 March 2015) <<http://www.omct.org/statements/bangladesh/2015/03/d23066/>>

²⁵ Torture and Custodial Death (Prevention) Act 2013, s 13.

²⁶ *ibid*, s 15.

²⁷ *ibid*, s 15(1).

²⁸ *ibid*, s 15(2).

²⁹ *ibid*, s 15(3).

³⁰ *ibid*, s 15(4).

³¹ Penal Code 1860 <http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11>

Section 506 of the Penal Code criminalises ‘criminal intimidation’, which means, threatening a person with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with an intention to cause harm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat.³²

Similarly, Section 162 of the CrPC makes any sort of admission or statement collected during the police investigation not admissible in Court. However, CrPC contains provisions in Section 167 allowing a Magistrate to place a suspect in interrogative custody, known as remand, during which the suspect could be questioned without his or her lawyer present. Most abuses reportedly occur during periods of remand.

Section 29 of the Police Act 1861 and Section 48 of the Dhaka Metropolitan Police Ordinance 1976 also penalise acts that were conducted under the wilful breach of any provision of law.

Certain legislation has also provided for administrative measures to prevent violation thereof. For example, under Section 157 of Bengal Police Regulations, made under the Bengal Police Act, 1861, ‘*[w]henver the police have used firearms, a full executive enquiry to ascertain whether the firing was justified and whether these regulations were obeyed, shall be held as soon as it can possibly be arranged*’. This law provides a framework within which the police shall work in case of the use of firearms at any time, may it be during any encounter, or otherwise. There have been several instances of encounter between LEAs and alleged drug-dealers, where the former have alleged that they were shot at first, and then they were compelled to fire back. However, there is no public information of the formation of any enquiry committee regarding these ‘shootouts’/‘encounters’.

Despite the existence of the laws discussed above, it is evident that government officials do not accept/receive the complaints when brought against such official. On 08 May 2018, Ashraf Ali, alias Aslam, (AGE) of Madarganj upazila in Jamalpur, reportedly died in the custody of the Detective Branch. Several injury marks were found on different parts of his body, including his hands and legs. ‘We found some injury marks on the hands and legs of the deceased’, said Dr Sohel Mahmud, head of the forensics department at Dhaka Medical College Hospital (DMCH), who oversaw the autopsy. Despite the forensic examination report, the Detective Branch outright rejected the claim that the 45-year old was tortured to death in custody, and said Aslam had a hernia and he might have died due to that.³³

No specific legislation exists that either outlines, or provides any guideline as to the interrogation rules, methods and procedures for questioning. This gives LEAs an opportunity to deploy any methods to secure a confession/admission from the accused. Even though such confession/admission is not admissible in Court, either under the Evidence Act, 1872, the CrPC, or the Constitution, LEAs adopt such methods during interrogation, due to the lack of accountability and oversight mechanism. For example, in news published on 15 March 2018, Zakir Hossain Milon, 38, acting president of the Tejgaon Police Station unit of Jatiyatabadi Chhatra Dal, BNP’s student wing, died on 12 March, six days after his arrest. BNP alleged that Milon had suffered “brutal torture during remand” and succumbed to his injuries. Refuting the

³² *ibid*, s 503.

³³ Arifur Rahman Rabbi, ‘Death in DB custody: Injury marks found on deceased’ *The Daily Star* (Dhaka, 08 May 2018) <<https://www.dhakatribune.com/bangladesh/crime/2018/05/08/death-db-custody-injury-marks-found-deceased>> accessed 16 June 2019

allegation, police said Milon had fallen sick in jail and was declared dead at DMCH. According to a news report, security forces admitted applying force during interrogation to glean information, but, claimed their application of force was not at a level where a detainee can die.³⁴ Thus, torture prevails due to the deeply rooted culture of impunity. Furthermore, fear is instilled against many tortured victims who refuse to share their incidents.

In 1997, the Committee against Torture identified various methods of interrogation that constitute torture³⁵ The then UN Special Rapporteur on torture, Peter Kooijmans, in his 1986 report, provided a detailed catalogue of those acts which involve the infliction of suffering severe enough to constitute the offence of torture.³⁶ Unfortunately, many of those methods are regularly used for interrogation by Bangladesh Police. The National Human Rights Commission, has documented the following forms of torture in police custody:³⁷

- Beating indiscriminately with a baton, known as “*General Therapy*” (sa-re-ga-ma).
- Both the hands and legs of arrested persons remain handcuffed, while they are placed like a bat on a piece of rod, put between two tables. In such inhuman condition, victims are then beaten under their feet. This method of torture is known as “*Bat Therapy*” (Badur Dholai).
- In the “*Snake Therapy*”, prisoners are mercilessly beaten while they are kept hanging with a hook from the ceiling and their wrists are tied up with a rope.
- In “*Water Therapy*” or Water Polish, the prisoner is kept lying on the floor, and then, water is poured into his/her mouth and nostrils, stuffed with a piece of cloth, so that s/he feels suffocated. This process continues for a considerably long period of time with little pauses. In some incidences, the victim falls severely ill, as water enters the lungs during this torturing process.
- In “*Penis Therapy*”, a piece of brick is hung from the penis of the victim with a string, and then the victim of torture is asked to walk.

³⁴ Star Online Report, ‘BNP’s protest Sunday on JCD leader’s death in jail custody’ *The Daily Star* (Dhaka, 15 March 2018) <<https://www.thedailystar.net/politics/bnp-protest-sunday-on-jcd-leader-jakir-hossain-milon-death-dhaka-central-jail-custody-bangladesh-1548562>> accessed 16 June 2019

³⁵ Acts such as (i) restraining in very painful conditions, (ii) hooding under special conditions, (iii) sounding of loud music for prolonged periods, (iv) sleep deprivation for prolonged periods, (v) threats, including death threats, (vi) violent shaking, (vii) using cold air to chill, etc.’ The then UN Special Rapporteur on torture, Peter Kooijmans, in his 1986 report, provided a detailed catalogue of those acts which involve the infliction of suffering severe enough to constitute the offence of torture. UNHRC ‘General Comments 20’ (1992) [3], and ‘General Comments 29’ (2001) [7].

³⁶ Acts including: beating; extraction of nails, teeth, etc.; burns; electric shocks; suspension; suffocation; exposure to excessive light or noise; sexual aggression; administration of drugs in detention or psychiatric institutions; prolonged denial of rest or sleep; prolonged denial of food; prolonged denial of sufficient hygiene; prolonged denial of medical assistance; total isolation and sensory deprivation; being kept in constant uncertainty in terms of space and time; threats to torture or kill relatives; total abandonment, and simulated executions. General Assembly Official Records, Report of the Committee against Torture (10 September 1997) Supp No 44 (A/52/44) [257]. ECOSOC, ‘Report by the Special Rapporteur, P Kooijmans, appointed pursuant to Commission on Human Rights Resolution 1985/33’ UN Doc E/CN.4/1986/15 [119].

³⁷ NHRC, ‘The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment: A Study on Bangladesh Compliance’ (2013) 43. <http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Study%20report%20CAT.pdf>

- In another commonly used method of torture in the custody, wired metal rings are put into the fingers of the prisoners to execute electric shocks. This method – known as ‘*Dancing Torture Method*’ – is named after the reaction of the victim, receiving such electric shocks.

A draft Police Ordinance was formulated in 2007 to replace the century-old law and ensure a certain degree of accountability. However, after the Caretaker Government, it never again saw the light of day. The most important characteristic of the proposed law was that it sought to make police accountable to citizens, not to political leaders. Under this proposed Ordinance, it is obligatory for each member of the police service to respect and protect the democratic and constitutional rights of all citizens. The draft provided for an independent authority to investigate any charge of abuse of power, violation of human rights, corruption, or non-performance of duty.³⁸ One very important task of this independent authority would have been to monitor and investigate all incidents of death and rape in police custody. This could have been the first ever institutional mechanism in Bangladesh for non-departmental independent investigation of offences committed by anyone in public service.

Article 16 of UNCAT requires each State Party to prevent other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture. The line dividing torture, on the one hand, and other cruel, inhuman or degrading treatment or punishment, on the other, is very thin.³⁹ Many describe torture as the highest point of a continuous development, which comprises cruel, inhuman or degrading treatment.⁴⁰ As a result, an act of cruel, inhuman or degrading treatment could be considered as a form of ill treatment that is not sufficiently serious so as to constitute torture. Under such a threshold, once a certain level of gravity is reached, an act qualifies as degrading treatment. Degrading treatment, when it reaches a certain severity can be re-classified as inhuman treatment which, in turn, if particularly serious can be classified as torture.⁴¹ The distinction between these concepts depends on the circumstances and on the gravity of each case. Neither the Anti-Torture Act, nor any other law in Bangladesh has defined ‘cruel, inhuman or degrading treatment or punishment.’ However, the Constitution expressly prohibits such treatment or punishment as a fundamental right of the citizen.

Under the Anti-Torture Act, extradition is allowed. That is to say, if a non-citizen is accused of any offence, the Government may communicate with the government of the country of origin of that person to take measures as to his or her extradition. In addition, under the Extradition Act 1974, any non-citizen of Bangladesh can be extradited/returned to his own country of origin from Bangladesh.

³⁸ Bangladesh Police Ordinance 2007 (draft) s 71 <<https://info.undp.org/docs/pdc/Documents/BGD/Research%20-%20ANALYSIS%20OF%20DRAFT%20ORDINANCE,%202007%20AND%201861%20POLICE%20ACT.pdf>> accessed 16 June 2019.

³⁹ NHRC, ‘The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment: A Study on Bangladesh Compliance’ (2013) 27. <http://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/Study%20report%20CAT.pdf>

⁴⁰ *ibid*; OMCT, ‘Children, Torture, and Power: The torture of children by states and armed opposition groups’ *Save the Children* (London, 2000) 13 <https://resourcecentre.savethechildren.net/node/13656/pdf/children_torture_power.pdf>

⁴¹ M Rahman and S Islam, ‘Obligation of Bangladesh under Article 4 of the UN Convention Against Torture’ *Bangladesh Journal of Law* 10 (1&2) (2006) 119-148.

Custodial Safeguards

Right to be informed of the reason for arrest, access to a lawyer of their choice, and to not be detained unlawfully

Article 33 of the Constitution provides for safeguards as to arrest and detention, and clearly bars the arrest and detention of a person without being informed of the reason for such arrest, and also requires production of any arrestee within 24 hours. Section 61 of the CrPC also requires production of every person before a court within 24 hours of arrest. However, such protection is not available under the Constitution for any enemy alien or someone who has been arrested or detained under any law providing for preventive detention, such as under Special Power Act, 1974.⁴² Moreover, the Constitution, under Article 33(4) also provides that the preventive detention may be extended beyond six months.

Article 33(1) has guaranteed the right to consult and be defended by a legal practitioner of his or her choice. Even though in the Constitution this right is recognised, in practice it is not maintained. For example, Shahidul Alam, founder of Drik Gallery and Pathshala South Asian Media Institute, was picked up on 5 August 2018 from his Dhanmondi residence in Dhaka during a major student demonstration for road safety. When arrested, he was not informed of the reasons of his arrest, and was blindfolded and handcuffed. He was not provided with a legal counsel during his interrogation.⁴³

Right to access to independent medical examination, Right to see reports

According to Section 4 of the Anti-Torture Act, whenever a case of torture is brought before any Court, amongst other directions, the Court is required to immediately direct a registered medical examiner to examine the victim of torture, and produce a report containing the identification of the signs of torture or injury and the possible time of infliction of torture, all within 24 hours. Moreover, the law requires that a copy of the said report shall be given to the complainant or his/her representative, as well as the Court where the case was filed.

Despite the inclusion of ‘mental’ torture in the definition of torture, there has been no inclusion of the identification of such torture under this provision. In the case of Shahidul Alam, the police filed an FIR after many hours since his arrest, under Section 57 of the Information and Communication Technology Act of 2013, accusing him of electronically broadcasting material that “had hurt the sentiments of school students,” “hurt the image of the nation,” and caused “deterioration in law and order.” On 6 August before the Dhaka Chief Metropolitan Magistrate, Alam claimed that the police had blindfolded and handcuffed him, hit him in the face until he bled, and threatened to abduct his wife, Rahnuma Ahmed, Shahidul’s partner, thus making it immensely clear that he was tortured in police custody. The Police refuted such allegation. The magistrate in the case neither recorded his statement nor ordered any medical examination, which he was obliged to do.⁴⁴ Following this, Rahnuma Ahmed, filed a writ petition demanding for his medical examination and on 7 August, the High Court ordered his physical and mental

⁴² Special Powers Act 1974 <http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=462>.

⁴³ Tribune Desk, ‘100 days on from Shahidul Alam’s arrest’ *Dhaka Tribune* (Dhaka, 13 November 2018) <<https://www.dhakatribune.com/bangladesh/court/2018/11/13/100-days-on-from-shaidul-alam-s-arrest>> accessed 16 June 2019.

⁴⁴ *ibid.*

examination in a leading government hospital. According to the four-member medical board formed for the examination of his physical and mental condition, he was both physically and mentally sound and Shahidul was returned to police custody. It was later raised by the Shahidul's lawyers that no psychologists were present in the medical board that examined him for his mental state. The Court then directed the home secretary to arrange an examination to determine whether Shahidul was tortured in custody and submit a report. Subsequently, after several rejections, on 20 November 2018, he was released from prison on bail after spending 107 days in detention. The Government took no further action to bring anyone to account regarding these actions. The NHRC,B is yet to make a determination with regard to a complaint regarding the alleged torture.

Requirement of allegations of torture being brought to the attention of the relevant prosecutor

According to Section 4 of the Anti-Torture Act, allegations of torture may be brought to the attention of the Court directly. If any person complains of torture before any competent Court, the Court is required to immediately record the complainant's statement in writing. The court is required to then order an examination of the body by a registered doctor of the same sex of the complainant. On finding wounds and signs of torture, as well as the approximate time of the alleged torture, the doctor is required to prepare a report within 24 hours. A copy of the report must be given to the Court, as well as to the complainant or their representative. After receipt of the complaint the Court is required to order the filing of the case and arrange for a copy of the recorded statement to be given to the Police Superintendent, or, in cases where necessary, to a superior police officer.

Under the Act, a third party who is a witness of torture can also file a complaint to the Court; for this kind of complaint the Court may inspect the place of occurrence. A third party, who is unharmed, is entitled to complain of the occurrence of torture to the Session Judge's Court or a police officer not less than the rank of Police Superintendent.

Any offences under this Act can only be tried by the Sessions Court.

Right to challenge lawfulness of detention

A victim, kept in unlawful custody, either by way of enforced disappearance or by arrest by the law enforcing agencies, may be recovered by the process of *habeas corpus*. To compel the custodian of the detained person to produce the detainee before the Court in order to enable the Court to examine the legality of the detention and consequently to release of the person is the main object of a writ in the nature of *habeas corpus* under Article 102 of the Constitution.

In practice, although such remedial measure works well in case of unlawful detention, they have not been effective in cases of enforced disappearance. Human rights organisations, and, civil society organisations have expressed serious concerns over the rise in alleged enforced disappearances in the country. In the case of former councillor of Dhaka City Corporation's Ward-56, Chowdhury Alam, who has been reported "missing" by his family since 25 June 2010, a writ was filed for the first time seeking a remedy for the 'disappearance'. The High Court, on 19 July 2010, directed the Inspector General of Police and the Director General of Rapid Action Battalion (RAB), to take steps to find Alam and bring him before the Court. No progress has been made in this regard, so far known. Since 2009, 567 cases of enforced disappearance

allegedly occurred; out of these, 78 persons were found dead, 53 persons were reportedly released and 59 were “shown arrested” later on.⁴⁵

Emergency Regulations and Anti-terrorism Act

During emergency periods,⁴⁶ human rights violations have been a common feature in Bangladesh. In such times, many persons arrested have alleged having been subjected to torture or some form of ill-treatment, including beatings.

After the enactment of the Anti-Terrorism Act, many legal experts, human rights activists and political activists have expressed their concerns about the risks of potential misuse of the law. Some provisions of this law are contrary to human rights principles and democratic values, such as freedom of expression and press. They also undermine the essence of the personal liberty of the citizens, freedom of speech and expression and the freedom of the media.

Under our Constitution, absolute rights, such as the rights to life and liberty, and freedom from torture, or cruel, inhuman or degrading treatment or punishment have been recognised as fundamental human rights of the citizens of Bangladesh, which cannot be suspended, or derogated from on ground of emergency, national security or any other reasons.⁴⁷ This has been reflected under Section 12 of the Anti-Torture Act, where the Act recognised that reasons of committing acts of torture or CIDTP through the authorisation of a public official during time of war, or emergency period shall not be acceptable.

The Anti-terrorism Act of 2009 was enacted in February of that year. The non-party caretaker government first approved and issued an anti-terrorism law in the form of an ordinance and after due consideration it received the approval of Parliament. The Act consists of 45 sections and was given retrospective effect from 11 June 2008. The Act states that all acts done or any action taken under the previous ordinance shall be valid. Further, the Act overrides some provisions of the CrPC or any other law. Later on, in 2012 an amendment changed the highest punishment under the act to death penalty and in 2013 another amendment allowed for social media content to be entered as evidence. The Anti-Terrorism Act appears to be a potential tool of repression and injustice in the name of countering terrorism.

The Anti-Terrorism Act allows up to 15 days police remand which is notorious in Bangladesh for inflicting physical and mental torture for extracting confession and/or bribe. Section 24 of requires that police investigations be completed within 30 days. This increases the risk of the use of ill-treatment and torture for extracting confession.

National security and emergency laws have also been challenged in various court proceedings, For example, in *BLAST v Bangladesh*, in 2003,⁴⁸ the Court directed that in order to prevent torture, or cruel or inhuman punishment or treatment, a police officer shall not arrest any person under Section 54 of the Code for the purpose of detaining him under Special Powers Act, 1974, and the magistrates shall not make any such order of detention. It is to be noted that the state filed an appeal with the Appellate Division on 17 May 2016, challenging this HCD’s verdict.

⁴⁵ Documentation Unit, ASK <<http://www.askbd.org/ask/category/enforced-disappearance/>>

⁴⁶ In Bangladesh, emergency was declared five times: in 1971, 1982, 1987, 1990 and 2007.

⁴⁷ Constitution of Bangladesh 1972.

⁴⁸ 55 DLR (2003) 363 <<https://www.blast.org.bd/content/judgement/55-DLR-363.pdf>>

The appeal was later dismissed by the Appellate bench on 24 May 2016, following which the AD declared its full verdict.⁴⁹

The role of state machineries and institutions in the prevention of torture

Role and status of the National Human Rights Commission, Bangladesh (NHRC,B)

According to Section 12 of the NHRC,B Act, 2009, the NHRC has a wide mandate to protect and promote human rights. However, in cases involving human rights violations by security or disciplinary forces, the Commission has, in practice, done little beyond sending notices and letters to, and/or asking for investigation and inquiry reports from, the concerned authorities. The Commission, has stated on various occasions that its governing legislation limits its mandate by only allowing it to request investigation reports.

According to Section 17 (2) of the NHRC,B Act, when the Commission asks for a report from the Government and the Government does not respond, the Commission reserves the right to investigate the matter. In the Commission's interpretation, Section 18 means that it does not have the right to investigate any matter independently where disciplinary forces are concerned,⁵⁰ and can only ask the concerned authorities for reports. However, according to legal experts and civil society representatives, Section 18 does not prevent the Commission to use its powers given under the Act. Rather broad interpretation of the NHRC,B Act is fully consistent with international principles of legal interpretation that rights and provisions protecting rights should be interpreted expansively and restrictions on rights and provisions protecting rights should be interpreted narrowly. Therefore, a broad, progressive and courageous interpretation of this law would not restrict the Commission's jurisdiction for investigating such cases, or contributing to resolving such cases through other means.⁵¹

Looking into the activities of the Commission, it can be seen that the Commission very rarely takes a strong stance regarding alleged human rights violation by security forces. There are a few cases where the Commission has requested an inquiry report or sent notices or letters to the concerned authority. For example, on being informed of the death of Zakir Hossain, Vice President, Jatiya Chhatra Dal, in police custody, the Commission *suo moto* issued a notice to the Secretary of the Public Security Division with copy to Inspector General of Police (IGP). Similarly, in the case of the death of Ashraf Ali alias Aslam (45) in the custody of the Detective Branch of Police, the Commission asked for an investigation report from the Secretary of the Public Security Division, Ministry of Home Affairs, and sent a copy of the letter to the IGP. The Report was subsequently submitted to them on 25 June 2018.

⁴⁹ Shakhawat Liton, 'Magistrates must act' *The Daily Star* (Dhaka, 14 November 2016) <<https://www.thedailystar.net/frontpage/magistrates-must-act-1314289>> accessed 16 June 2019.

⁵⁰ Section 18 of the Act states that, 'the Commission may, *suo moto* or on any application require the Government to submit a report in respect of the allegation of violation of human rights against the disciplined force or any member thereof.'

⁵¹ ASK, 'National Human Rights Commission Bangladesh, Existing Challenges ad Expectations of Civil Society' (December 2018) <https://docs.google.com/viewerng/viewer?url=http://www.askbd.org/ask/wp-content/uploads/2019/02/NHRC-Report_English.pdf>

Regarding Romel Chakma's alleged death by torture in the hands of LEAs, the Commission formed a three-member probe committee which was instructed to submit a report within fifteen working days, after receiving a complaint from Romel's father. After submission of the report in due time, the Commission sent its observations to the Government for further action.

In the case of Thandu Mia's death by torture allegedly in the hands of Assistant Sub-Inspector (ASI) Rabiul Aual, the Commission *suo moto* issued a notice to the Ministry of Home Affairs calling for a detailed report and action taken accordingly. A report was subsequently sent to the Commission which stated that while ASI Rabiul Aual arrested Thandu Mia without informing higher authorities, the allegation of torturing him was not proved. The report further mentioned that departmental proceedings were drawn against him and he was suspended and later punished by downgrading him to the post of a constable for the next two years.

With regard to the case of Shahjalal, whose eyes were gouged out on the suspicion of hijacking, the Commission *suo moto* asked for proper investigation report from the Deputy Commissioner of Khulna, who subsequently sent a report. In the report, it was mentioned that a case was filed on this matter which was pending. The matter was placed before the full bench of the Commission, and it was decided that the Commission would provide legal support to the victim's family, and thereby provided a panel lawyer in favour of the victim.

With regard to Limon's case, the Commission, took a positive role initially, but later at one point requested Limon to withdraw the case he had filed if RAB agreed to withdraw the two cases against him, one under Arms Act, 1878, and another for obstructing RAB in conducting their duty. Limon refused to withdraw the cases as he wanted justice. In his defence, the Commission Chairperson clarified his position stating that "it is very tough to get justice by making the state a rival. We have to find a solution without making the state a rival [...] justice will be ensured gradually."

The Subarnachar gang-rape case is a case of particular concern. On the night of 30 December 2018, during the 11th National Parliamentary Election, a mother of four children was gang-raped in Subarnachar Upazila, Noakhali, allegedly for voting for the candidate of her choice. After this incident, the Commission formed a probe committee to conduct an investigation on the incident. In the inquiry report, it was mentioned that while rape was proved, no evidence could be found suggesting that the rape was linked to voting. It went further to say that, 'there is no proof that the accused are Awami League workers or that she was raped and assaulted by the Awami League workers'. While the inquiry report was shared publicly by the Commission, the Commission later refused to take responsibility for the report, stating it to be a report of the Inquiry Committee alone.

Independence of the Judiciary

The independence of the lower judiciary remains a concern. Subordinate court judges and magistrates are appointed by the President. The executive asserts control over the lower judiciary, especially the magistracy, which enjoys limited independence in performing judicial functions.⁵² The magistrates according to many serve according to the will of the executive. The

⁵² Professor M Rafiqul Islam, 'Independence of the judiciary- the Masdar case' *The Daily Star* (Dhaka, 10 March 2014) <<https://www.thedailystar.net/independence-of-the-judiciary-the-masdar-case-14760>> accessed 16 June 2019.

public prosecutors remains highly politicised.⁵³ Frequent government interference with lower court proceedings on political grounds and their use as a political weapon through undue favour in promotions and transfers, adjournment of hearings, release of accused persons, and withdrawal of cases on political grounds are rampant.⁵⁴ In the cases of torture where the accused persons are generally from LEAs or the ruling political party, it is likely that the outcome of the proceeding may be affected. Withdrawal of cases, on political grounds, frequent adjournments, granting prayers for remand appear in many cases to be based on political affiliations. Such interference subverts justice by undermining the constitutional provision of Article 35(3) as well as impairing the independence of the lower judiciary.

In some cases, the Supreme Court played a strong role against extra-judicial killings or torture and has passed necessary orders to secure justice. A recent example is the Narayanganj Seven Murder Case where the HCD stressed the need for a strong message to avert brutal crimes like the abduction and killing of seven men in Narayanganj in 2014. It also observed that such crimes of 'extreme brutality' must not recur in any circumstances.⁵⁵

On 13 July 2014, garment waste trader Mahbubur Rahman Sujon Sujon, 35, was allegedly tortured to death by some cops of Mirpur Police Station. His wife filed a murder case with the Metropolitan Sessions Judge's Court on July 20, accusing 10 persons. In November 2014, the judicial body probing the custodial death of Sujon found four cops, including prime accused Sub-Inspector Jahidur Rahman, and a civilian involved in the murder.⁵⁶

Istiaq Ahmed Johnny, 28, was a resident of Talab camp, a settlement for the Bihari community. On 8 February 2015, then Sub-Inspector Jahidur Rahman Khan and the others nabbed Johnny when he went to attend a wedding ceremony in the Irani Camp of capital's Mirpur. And later, he was allegedly tortured to death.⁵⁷ Johnny's brother Imtiaz Hossain filed the case with the court against them under the Torture and Custodial Death (Control) Act 2013. After taking cognizance of the murder charge filed by victim, Judge of the metropolitan session judges' court passed a judicial enquiry into the custodial death against eight persons, including the then Sub-Inspector and the Officer-in-Charge of Pallabi Police Station.

However, in recent times, it has also been felt that the Judiciary has been failing to play the appropriate role in practice in protecting citizens from torture caused by LEAs when political activists are involved.

Some human rights lawyers expressed their opinions during interviews that the victims and their family members are frightened to go to the Court to file a case under the Anti-Torture Act, having the apprehension that they will not get sufficient protection from the Court; and rather may be subjected to further torture.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ Ashutosh Sarkar, 'Such brutal crimes must not recur' *The Daily Star* (Dhaka, 20 November 2018) <<https://www.thedailystar.net/narayanganj7murder/verdict-need-strong-message-avert-such-brutality-1662646>> accessed 16 June 2019.

⁵⁶ Chaitanya Chandra Halder and Jamil Mahmud, 'Four Mirpur cops guilty' *The Daily Star* (Dhaka 12 November 2014) <<https://www.thedailystar.net/four-mirpur-cops-guilty-49930>> accessed 16 June 2019

⁵⁷ Star Online Report, 'Custodial death: Judicial enquiry ordered against SI Jahid' *The Daily Star* (Dhaka, 07 August 2014) <<https://www.thedailystar.net/custodial-death-judicial-enquiry-ordered-against-si-jahid-36184>> accessed 16 June 2019.

Legal Concept of superior responsibility

Articles 1(1), 2(3) and 4(1) of UNCAT clearly demonstrates that torture can, in no way, be justified, be it done by a person at his own will or by the command of his or her superior. The same has been reiterated in Section 13 of the Anti-Torture Act.

Article 1(1), read along with Article 2(3) of the Anti-Torture Act clearly reflect that torture cannot be justified even if it is committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Article 4(1) enumerates that any such act shall constitute as a criminal offence. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

In compliance with the international standard, Section 13 of Anti-Torture Act states that if any person tortures another person, then that act shall be considered as an act of torture. It further states that if torture is committed by any person at the instigation of another, or if someone conspires or assists or provokes another to commit torture, then that person shall also be held to have committed the act of torture. The offender, in all the aforementioned cases, will be held personally liable for the crimes committed.

However, Section 197 of CrPC prohibits prosecutions against public official without the government's prior sanction if the offence is committed in an official capacity.⁵⁸ The logic underlying Section 197 is to ensure that responsible public servants are protected from motivated, vexatious and frivolous criminal proceedings while discharging their official duties. Critics say that in practice, this provision has served to obstruct access to justice rather than facilitate it. In other words, Section 197 of CrPC risks denying victims the right to an effective legal remedy, central to the UNCAT.⁵⁹

Moreover, combining all these provisions, both nationally as well as internationally, another aspect that is seen to be missing in the national legislation is 'command or superior responsibility'.

The doctrine of command responsibility is a form of responsibility for omission to act: a superior may be held criminally responsible under that doctrine where, despite his awareness of the crimes of the subordinates, he culpably fails to fulfil his duties to prevent and punish these crimes.⁶⁰

The principle of individual criminal responsibility of superiors for failure to prevent or repress the crimes committed by subordinates, forms part of customary international law as well.⁶¹ The essential elements of command responsibility for failure to act are as follows:⁶²

- The existence of a superior-subordinate relationship;

⁵⁸ CrPC 1898, s 197.

⁵⁹ Muhammad Nurul Huda, 'Custodial torture and accountability' *The Daily Star* (Dhaka, 30 May 2015) <<https://www.thedailystar.net/op-ed/politics/custodial-torture-and-accountability-89509>> accessed 16 June 2019.

⁶⁰ The Peace and Justice Initiative, *The Doctrine of Superior/Command Responsibility* <<https://www.peaceandjusticeinitiative.org/implementation-resources/command-responsibility>> accessed 16 June 2019.

⁶¹ Case Matrix Network, 'International Criminal Law Guidelines: Command Responsibility' (January 2016) ch 05 <<https://www.legal-tools.org/doc/7441a2/pdf/>>.

⁶² *ibid.*

- The superior knew or had reason to know that the criminal act was about to be or had been committed; and
- The superior failed to take the necessary and reasonable measures to prevent the criminal act or punish the perpetrator thereof.

However, any such provision is absent in the Anti-Torture Act. It is indeed true that Section 13 does, as a matter of fact, include criminal responsibility for any attempt to torture or instigation, provocation or conspiracies resulting in torture; but, it does not say in the absence of any of these, if the superior fails to prevent the torture despite having the knowledge that the act is being committed or is about to be committed, then that, makes the superior equally liable.

Legal Framework for combating violence against women and children including sexual violence

In the absence of a legal framework to combat sexual harassment, women, third gender persons or minority groups in Bangladesh are being subjected to torture in various forms such as rape, sexual assault, family abuse as well as workplace harassment, etc. Sexual harassment was first addressed by the High Court Division in 2009 in the case of *BNWLA vs Government of Bangladesh*⁶³ where a set of guidelines were given to fill the lacuna in existing laws. However those directives are not being adhered to. Despite having the HCD direction, no laws have been enacted as of yet regarding the formation of a sexual harassment committee at workplace. Currently, there is no regulatory system in place to monitor whether the institutions or workplaces are actively following the direction. Unfortunately, the scenario in Madrasas is worse as these institutions are outside any kind of monitoring mechanisms of the government.

On 6 April 2018, Nusrat, an Alim examinee, was doused in kerosene and set on fire by the alleged accomplices of Maulana Siraj Ud Doula, principal of Sonagazi Islamia Senior Fazil Madrasa where she was studying, for not withdrawing a case filed against him over sexual harassment. The girl's mother had filed a case against the principal on March 27 which was the reason for the attack on Nusrat. After fighting for her life for five days, Nusrat died on 10 April. Before she was put on life support on 7 April, she gave a statement to the doctors, describing in horrific detail how she was attacked by a group of four people—all wearing burqas, veils and gloves. She also mentioned that the principal used to harass the female students of the madrasa on a regular basis.⁶⁴

Nusrat's family had not withdrawn the case against Siraj Ud Doula amidst pressure from a group of people and in the face of death threats by his accomplices. After the horrific incident of April 6, Nusrat's brother filed an attempt to murder case with the local police accusing Siraj Ud Doula and his assistants. The way the local police have acted since the filing of the first case against the madrasa principal indicated that they were well-connected with the perpetrator. Nusrat's family said that they could not trust the local police as they tried to manipulate both the cases. The local OC himself has said that the case of sexual harassment against the madrasa principal was false. He even told a private TV channel that it was not clear whether the girl was attacked or it was a

⁶³ 14 BLC (2009) 694.

⁶⁴ Naznin Tithi, 'Let Nusrat's demise strengthen our demand for justice' *The Daily Star* (Dhaka, 12 April 2019) <<https://www.thedailystar.net/opinion/society/news/let-nusrats-demise-strengthen-our-demand-justice-1728481>> accessed 16 June 2019.

suicide attempt.⁶⁵ The first case statement prepared by the police was full of wrong information and even the place of the attack was changed. According to the victim's family, in the statement, the police deliberately dropped the names of some of the accused including the madrasa principal, the main accused in the case. The OC was later withdrawn.

A Supreme Court Lawyer sued the former OC on 15 April under the Digital Security Act, charging him of recording a video of Nusrat without her consent and spreading the footage on social media. The video shows the former OC asking Nusrat several “defamatory and objectionable” questions one after another. The complainant said that “such an irresponsible government official should be brought under trial”.⁶⁶ The complainant appealed to the court to issue an arrest warrant against Moazzem for his alleged involvement with recording Nusrat's statement and spreading it on social media.

On 8 May, Moazzem was suspended over the murder and was attached to the office of Deputy Inspector General (DIG) of the Rangpur Range. Following the case, the tribunal had asked the Police Bureau of Investigation (PBI) to submit an investigation report. According to the probe report, Moazzem himself had recorded the video on camera and later passed the footage to someone else. The footage shows that Moazzem was asking Nusrat “insulting” questions.

Finally, on 16 June 2019, Moazzem was arrested after about 20 days since his arrest warrant was issued, during which time he was in ‘absconding’.⁶⁷ It is alleged that Police was negligent in executing the warrant.⁶⁸

In the first three months of 2019, at least 15 cases have been reported where students have been raped or gang-raped by their teachers or staff members in their schools, colleges and madrasas, while at least four have been sexually harassed, according to the data collected by Bangladesh Shishu Adhikar Forum (Bangladesh Children’s Rights Forum – BSAF).⁶⁹

An estimated 60 percent of the country’s schools and colleges are yet to form sexual harassment complaint committees. Around 40 percent of the universities, both public and private, have not complied with the directive either.⁷⁰

A study of ActionAid Bangladesh on 30 students of several universities in January 2019 also found that 84 percent of them were not aware about a sexual harassment committee in their

⁶⁵ *ibid.*

⁶⁶ Star Online Report, ‘Investigation finds ex-OC’s involvement in leak of the video in social media’ *The Daily Star* (Chittagong, 26 May 2019) <<https://www.thedailystar.net/city/news/ex-sonagazi-oc-involved-nusrats-video-leak-pbi-1749223>> accessed 20 June 2019.

⁶⁷ Md Sanaul Islam Tipu, ‘Ex-Sonagazi OC Moazzem files plea for special treatment’ *Dhaka Tribune* (Chittagong, 20 June 2019) <<https://www.dhakatribune.com/bangladesh/nation/2019/06/20/ex-sonagazi-oc-moazzem-files-plea-for-special-treatment>> accessed 20 June 2019.

⁶⁸ Star Report, ‘Cops allowed ex-Sonagazi OC to leave’ *The Daily Star* (Chittagong, 10 June 2019) <<https://www.thedailystar.net/backpage/news/cops-allowed-ex-sonagazi-oc-leave-1754677>> accessed 16 June 2019.

⁶⁹ Kamrul Hasan, ‘Sexual abuse in educational institutions: A dangerous trend on the rise’ *Dhaka Tribune* (Dhaka, 13 April 2019) <<https://www.dhakatribune.com/opinion/special/2019/04/13/sexual-abuse-in-educational-institutions-a-dangerous-trend-on-the-rise>> accessed 16 June 2019.

⁷⁰ Mohiuddin Alamgir, ‘Cell to Fight Sexual Harassment: 10 yrs on, 60pc schools yet to act on HC order’ *The Daily Star* (Dhaka, 23 May 2019) <<https://www.thedailystar.net/frontpage/news/cell-fight-sexual-harassment-1747621>> accessed 16 June 2019.

university.⁷¹ The High Court expressed dissatisfaction over the failure to implement the 2009 directive on May 2019.⁷²

Despite of High Court's directive and the government's repeated circulars, children are still facing corporal punishment at their educational institutions. On 13 January, 2011, High Court declared all types of corporal punishment in schools 'illegal and unconstitutional' and termed it as "cruel, inhuman and degrading treatment and a clear violation of a child's fundamental right to life, liberty and freedom".⁷³ The High Court banned all sorts of corporal punishment such as caning, beating, chaining, forced-haircut and confinement in all primary and secondary schools and madrasahs. The court also sought actions against those teachers who are engaged in inflicting corporal punishment on the students, terming it as an act of extra-judicial punishment. After the High Court's ruling, the government banned such corporal punishment in all educational institutions across the country in August 2011. The Ministry for Primary and Mass Education (MoPME) issued a circular specifying the following:

- i. Circulars (2010 Government Circular and 2011 Government Guidelines) are to be displayed visibly at in the head masters' room of all schools.
- ii. Appointment letters of teachers must specify their role in preventing corporal punishment.
- iii. Corporal punishment should be included in the DC and UNO quarterly coordination meeting agenda.
- iv. Ending corporal punishment should be included as criteria for the annual best school award.
- v. Corporal punishment should be verified during inspections by Upazila Education Officer & Assistant Upazila Education Officer.

Regardless of such circular, the incidents continued due to lack of proper monitoring mechanism. From January 2017 to May 2019, 345 children were victims of corporal punishments. There were incidents where students committed suicide after being humiliated by the teachers.

In August 2016, a schoolgirl allegedly hanged herself in her room in Chandpur after evidently being punished by a teacher for failing to pay an exam fee of Tk 80.⁷⁴

In December 2018, a ninth-grade student of Viqarunnisa School and College (VNSC) killed herself, allegedly after school authorities summoned her guardians and scolded her for adopting unfair means in the school's annual exam.⁷⁵

⁷¹ *ibid.*

⁷² Star Online Report, 'Not forming body to prevent sexual harassment disappointing: HC' *The Daily Star* (Dhaka, 06 May 2019) <<https://www.thedailystar.net/country/news/not-forming-body-prevent-sexual-harassment-disappointing-hc-1739572>> accessed 16 June 2019.

⁷³ Writ Petition No 5684/2010 <https://www.blast.org.bd/content/judgement/wp_5684of2010.pdf>

⁷⁴ Correspondent, 'Punished for failure to pay, schoolgirl kills herself' *The Daily Star* (Chandpur, 30 August 2016) <<https://www.thedailystar.net/backpage/unable-pay-tk-80-exam-fee-schoolgirl-kills-herself-1277668>> accessed 16 June 2019.

⁷⁵ Staff Correspondent, 'Ninth-grader kills herself in capital' *The Daily Star* (Dhaka, 04 December 2018) <<https://www.thedailystar.net/city/news/viqarunnisa-noon-school-college-student-commits-suicide-dhaka-bangladesh-bd-1668766>> accessed 16 June 2019.

Women in the countryside are also subjected to extra-judicial punishment in the form of Fatwa. In *Bangladesh Legal Aid and Services Trust (BLAST) v Bangladesh*,⁷⁶ the HCD found that imposition of extra-judicial punishment is nothing but an infliction of torture upon a person.

Therefore, the HCD declared that the imposition of extra-judicial punishment, or torture, in the name of executing Islamic Sharia/Fatwa (*religious dictum*) is illegal and thereby, unconstitutional. The case came in the form of a Public Interest Litigation when a number of news concerning violence against women were appearing in the media on daily basis. The local government and law enforcing agencies were directed to take preventive measures for ending such culture of torture in the decision, however, till date the news of imposing unconventional and cruel torture on women from Salish or Fatwa can be found.

According to ASK documentation, 10 women became subject to Salish and Fatwa in 2017. Among them, three women were ousted from the village, three became victims of hillah marriage and dorrah (beating in public) and four were physically assaulted.⁷⁷ Again 7 women became victims of torture instigated by Salish and Fatwa in 2018. Among them, 5 were victims of physical torture, 1 woman died after torture, and 1 committed suicide after Salish.⁷⁸

On 26 August 2018, on a false allegation of depravity, Shyamoli of Dinajpur's Parbotipur upazilla's indigeneous village Harirampur, was brutally beaten up by 6/7 men led by village leader and UP member. She fell sick after the torture and later died on 28 August while under treatment at Dinajpur's Abdur Rahim Medical College Hospital. On the other hand, on 1 August, a woman named Asma Akter, mother of 4 children, was physically tortured in Daudkandi upazilla of Comilla district.

The situation for sexual minority groups are even grimmer whereas homosexuality is a criminal offence under section 377 of the Penal Code, 1860. In November 2013, despite the Bangladesh government recognising hijras as a separate gender, in the same year, the Parliament refused to consider the United Nations Human Rights Commission's recommendations on decriminalisation of same-sex relationships. Moreover, even after the recognition as a distinct gender, the rights of hijra people are continuously violated.

Bandhu Social Welfare Society through its substantive works in the area of sexual health and rights of sexual minority population has witnessed numerous complaints of persistent violence, harassment and human rights violations against the communities and the number has been increasing alarmingly in the recent times. From **2013-2018**, they received the following complaints from gender diverse population:

Violence	No. of Complaints
Abuse/harassment	434
Domestic violence	331
Property dispute	827
Discrimination	505
Assault	294

⁷⁶ 63 DLR (2011) 1.

⁷⁷ ASK, 'Annual Observation by Ain o Salish Kendra (ASK): HUMAN RIGHTS SITUATION OF BANGLADESH IN 2017' (2018) <http://www.askbd.org/ask/wp-content/uploads/2018/05/ask_hr_booklet_optimized.pdf>

⁷⁸ Documentation Unit, ASK. <<http://www.askbd.org/ask/2019/01/14/violence-women-fatwa-salish-january-december-2018/>>

The miserable situation of discrimination might abate with the enactment of the Anti-Discrimination Law, 2014. Under this draft bill, both direct and indirect discrimination against any minority group will be treated as an offence, which is punishable with up to 10 years of imprisonment. Moreover, this law suggested for inclusion of all minority groups in the national census to improve their livelihood. Despite repeated commitments from the responsible minister, the law is yet to be enacted.

3. Accountability and Oversight Mechanisms

Presence of systematic review of interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons (Article 11)

The practices as well as arrangements for the custody and treatment of persons are quite disturbing.

The Anti-Torture Act was passed in Parliament on 24 October 2013 after a prolonged campaign. Despite the penalties [abovementioned under Part 2 of the Report], provided in the law for the commission of torture, there has been no change in the actual situation and a section of LEAs continue such practice. On 10 November 2016 the Appellate Division of the Supreme Court issued a 19-point guideline to judicial and law-enforcement officials regarding arrests without warrant and the procedure of remand.⁷⁹ Like the 2013 law, such guideline has not yet been enacted into a legislation, nor implemented as it is.

The Government has failed to introduce credible mechanisms for accountability of LEAs with respect to the systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons. There is a general consensus within the human rights community in Bangladesh that, there is no independent monitoring of places of detention and no systematic disaggregated data available regarding this issue.

In *ASK v Bangladesh and others*, the unlawful detention of the prisoners languishing in Dhaka Central Jail, despite having served out their terms of conviction, was challenged. (Please provide details of this case).⁸⁰

4. Responding to Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment

Examine and investigation credible torture complaints promptly and impartially and ensure protection of victims and witnesses (Articles 12 and 13)

Article 12 of the UNCAT requires prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed. To begin with Section 5(i) and 5(ii), the Act requires the police to investigate the matter. In reality, the police

⁷⁹ BSS, 'SC releases full text of verdict on detention, remand' *Dhaka Tribune* (Dhaka, 10 November 2016) <<https://www.dhakatribune.com/bangladesh/2016/11/10/sc-releases-full-text-verdict-detention-remand>> accessed 16 June 2019.

⁸⁰ Writ Petition No. 1987/2005 <<http://www.askbd.org/ask/2005/08/31/unlawful-detention/>>

themselves are often alleged to be involved in the torture. Even though it is encouraging that the Act acknowledges the inherent bias involved in the police investigating one of its own.⁸¹ Hence, it explicitly enables an aggrieved person to apply to the Court to contend that a fair investigation by the police is not possible. If satisfied, the Court may order a judicial investigation, as per Section 5(iii) and the proviso of Section 5(ii).

However, the matter of concern is that despite mentioning about a judicial investigation, the Act has failed to point out by whom the judicial investigation would be conducted or who the investigation committee would be comprised of.

Moreover, Article 13 of the UNCAT guarantees protection of the complainant and witnesses from any ill-treatment or intimidation as a consequence of his or her complaint or any evidence given. On the contrary, the Anti-Torture Act merely mentions the protection of victims without any clarification as to how and when it would be provided or to whom. Both Sections 5 and 11 of the Act states that ‘appropriate measures’ would be taken to safeguard the complainant or the aggrieved.

Provide redress to torture survivors including compensation and as full rehabilitation as possible (Article 14)

Article 14 of the UNCAT states that each state party shall ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

On the contrary, the Anti-Torture Act, 2013 states that an amount of only 25,000 taka shall be paid to the victim or aggrieved person/s. This sum will be wholly inadequate to cover for example, loss of an organ, or in case of keeping the victim in long custody where the victim is the only bread earner of the family, or to cover pain and suffering. Furthermore, the Act makes no reference, whatsoever, to rehabilitation.

5. Confession Under Torture and Other Cruel Inhuman Degrading Treatment or Punishment

Evidentiary value of statements made as a result of torture

As mentioned above, Section 162 of the CrPC makes any sort of admission or statement collected during the police investigation is inadmissible in Court. However, the CrPC contains provisions in Section 167 allowing a Magistrate to place a suspect in interrogative custody, known as remand, during which the suspect could be questioned without his or her lawyer present. Most abuses reportedly occur during the periods of remand. Police remand itself implies that the accused person did not give information voluntarily and that is why he is placed into the interrogative custody. Article 35(4) of the Constitution has clearly stated that no one can be

⁸¹ Anirudha Nagar, ‘Putting the Torture and Custodial Death (Prevention) Act to the test’ *The Daily Star* (Dhaka, 03 August 2014) <<https://www.thedailystar.net/putting-the-torture-and-custodial-death-prevention-act-to-the-test-35487>> accessed 16 June 2019.

compelled to be a witness against himself. Therefore, the concept of police remand itself is a Constitutional controversy.

In the case of *BLAST and others v Bangladesh and others*,⁸² one of the fifteen directives were that an accused must be interrogated by the investigation officer in a prison room instead of a police interrogation cell, until the cell has a glass wall or a wall with grilles on one side to make the accused visible to the lawyer or relatives. The Court also ruled that Sections 54 and 167 of the CrPC that allow arrest on suspicion and subsequent remand were not consistent with the fundamental rights as guaranteed by the Constitution.

6. Threat to freedom of expression and human rights defenders (Article 16)

Serious concerns have been expressed by civil society groups for freedom of press, freedom of expression and protection of human rights defenders and are increasing with the staggering number of arrests, and related harassment and torture and ill-treatment.

The Digital Security Act was enacted ignoring the concerns expressed by civil society and the media regarding Sections 8, 28, 29 and 31.⁸³ It was deemed by many commentators to be against the main spirit of the constitution and restrict free-thinking, freedom of speech and freedom of expression. The National Online Mass Media Policy 2017 and the Bangladesh Press Institute Act 2018, the National Broadcasting Act 2018, may also increase government control and restriction on the freedom of expression. The situation is getting worse every year, as can be seen from the following year-wise scenario.

Year	Number of Cases under ICT Act
2013	3
2014	33
2015	152
2016	233
2017	568
2018*	282
Total	1,271

⁸² 55 DLR (HCD) (2003) 363 <<https://www.blast.org.bd/content/judgement/55-DLR-363.pdf>>.

⁸³ Tribune Desk, 'Concerns voiced about Digital Security Bill' *Dhaka Tribune* (Dhaka, 20 September 2018) <<https://www.dhakatribune.com/bangladesh/law-rights/2018/09/20/concerns-voiced-about-digital-security-bill>> accessed 16 June 2019.; Staff Correspondent, 'Danger to freedom of expression' *The Daily Star* (Dhaka, 21 September 2018) <<https://www.thedailystar.net/politics/digital-security-act-2018-amnesty-tib-ask-concerned-1636579>> accessed 16 June 2019.

Table: Number of cases filed at the Cyber Tribunal under ICT Act from 2013 until 15 April 2018⁸⁴

According to an ASK Documentation, from January to May in 2019, 53 journalists have been harassed.⁸⁵ Thirteen of the media professionals were threatened allegedly by ruling party member affiliates and few were harassed by the law enforcing agencies.

Section 57 of the ICT Act was applied frequently to silence journalists, activists, social media users – over 90 cases have been brought from January till September in 2018.⁸⁶ In September 2018, the Digital Security Act was enacted. This new law was supposed to address abusive provisions in the Information and Communication Technology Act. However, the new law still retained similar provisions and contains new sections to criminalise free expression. Meanwhile, hundreds continued to face charges for their social media commentary. Journalists reported threats and intimidation to prevent any criticism of the government.⁸⁷ At least 63 people, including online and cultural activists and journalists, have been arrested under the Digital Security Act in between October, 2018 and January 2019 mostly for their activities against the government on social networking sites, especially Facebook and YouTube.⁸⁸

In 2018 the ruling party and their student wing allegedly attacked university and school students with sticks and machetes when they had launched a protest demanding road safety. However, authorities took no legal action against those perpetrators, but instead detained the protesting students for their peaceful assembly.⁸⁹ As mentioned above, a renowned photojournalist, Shahidul Alam was arrested by members of the Detective Branch hours after he gave a media interview describing the violence he witnessed during the protests.⁹⁰

In his words, he was tortured in custody, “I don’t know what they hit me with, as my eyes were blindfolded – I felt blood dripping from my mouth and nose. My clothes were getting wet with blood. Then I heard them saying, ‘it is not wise to hit in sensitive areas, because those are visible.’”⁹¹ However, the government denied the allegations of torture whatsoever.

⁸⁴ Human Rights Watch, ‘No Place for Criticism: Bangladesh Crackdown on Social Media Commentary’ <<https://www.hrw.org/report/2018/05/09/no-place-criticism/bangladesh-crackdown-social-media-commentary>> accessed 16 June 2019.

⁸⁵ Documentation Unit, ASK <<http://www.askbd.org/ask/2019/06/17/journalist-harassment-january-may-2019/>>

⁸⁶ ARTICLE 19, ‘HRC39: Bangladesh adopts UPR amid deteriorating situation for rights to freedom of expression and information’ (20 September 2018) <<https://www.article19.org/resources/hrc39-bangladesh-adopts-upr-amid-deteriorating-situation-for-rights-to-freedom-of-expression-and-information/>> accessed 16 June 2019.

⁸⁷ Human Rights Watch, ‘World Report 2019: Bangladesh’.

⁸⁸ Muktadir Rashid, ‘63 people held since October’ *New Age Bangladesh* (Dhaka, 15 January 2019) <<http://www.newagebd.net/article/61819/63-people-held-since-october>> accessed 16 June 2019.

⁸⁹ Star Online Report, ‘Post-student protest: 51 cases filed, 97 arrested’ *The Daily Star* (Dhaka, 15 August 2018) <<https://www.thedailystar.net/city/post-student-protest-51-cases-filed-97-arrested-dhaka-movement-for-safe-roads-demand-1621120>> accessed 16 June 2019; Staff Correspondent, ‘End crackdown, free protesters’ *The Daily Star* (Dhaka, 19 August 2018) <<https://www.thedailystar.net/news/country/bangladesh-must-end-crackdown-student-protests-ai-1622545>> accessed 16 June 2019.

⁹⁰ Human Rights Watch, ‘World Report 2019: Bangladesh’.

⁹¹ Ashif Entaz Rabi and Imran Vittachi, ‘Police Made Waterboarding Threat, Bangladeshi Photographer Says’ *Benar News* (Washington, 12 April 2019) <<https://www.benarnews.org/english/news/bengali/shahidul-04122019163352.html>> accessed 16 June 2019

Many well-known bloggers such as Imran H Sarkar or Shonaton Ullash, members of the of Gonojagoron Mancha were arrested under Section 57 of the ICT Act over allegedly derogatory posts about the Government and the Prime Minister Asaduzzaman Nur, a blogger was arrested from Hazrat Shahjalal International Airport on allegations of defaming the Prophet Mohammad (pbuh) in a blog post. Several bloggers were arrested for posting comments allegedly constituting ‘hurt to religious sentiment’ on his blog.⁹²

On 01 September 2016, Siddique Rahman, editor of the *Daily Shikkha*, a news website dedicated to education reporting, was arrested in Dhaka after publishing articles about alleged corruption in a government education department. Many journalists have been arrested under the Digital Security Act in recent time.

A television actress and anchor, Quazi Nawshaba Ahmed was detained on 4 August 2018 for allegedly spreading rumours on social media about the student protests for safe roads. A case was filed against her under the Information and Communication Technology (ICT) Act. The next day she was placed on a four-day remand after police produced her before the court with a seven-day remand prayer. On 10 August 2018, she was again granted a fresh two-day remand for quizzing. Later 23 on August, she was granted bail considering her health condition.⁹³

⁹² Staff Correspondent, ‘Blogger Asif detained’ *The Daily Star* (Dhaka, 03 April 2013) <<https://bdnews24.com/bangladesh/2013/04/03/blogger-asif-detained>> accessed 16 June 2019.

⁹³ Star Online Report, ‘Nawshaba charged for spreading rumours on social media’ *The Daily Star* (Dhaka, 27 May 2019) <<https://www.thedailystar.net/city/news/nawshaba-charged-spreading-rumours-social-media-1749667>> accessed 16 June 2019.

VI Recommendations:

1. Revise the definition of ‘torture’ in the Anti-Torture Act to expressly incorporate gender-based violence including rape, sexual harassment, and other violence as a form of torture;
2. Revise the definition of ‘law enforcement authority’ in the Anti-Torture Act to include the Department of Narcotics Control, Anti-Corruption Commission and other security forces;
3. Amend the Anti-Torture Act to define and criminalise cruel, inhuman and degrading treatment or punishment, in consistency with the Constitution and with UNCAT;
4. Incorporate a clear definition of ‘custody’ in the Anti-Torture Act;
5. Incorporate in the Anti-Torture Act a clear definition of ‘extra-judicial killings’ as a form of torture while the victim is in the custody and the compensation scheme provided for under the Anti-Torture Act by making it mandatory and to ensure that the victim and their family members secure redress;
6. Incorporate a provision in the Anti-Torture Act whereby the consequence of not completing the investigation reports within the prescribed time limits is mentioned;
7. Incorporate a provision in the Anti-Torture Act for the protection of witnesses;
8. Amend the Anti-Torture Act by introducing provisions for extra-territorial jurisdiction particularly on-board a ship or aircraft of Bangladesh in accordance with Article 5 (1) of UNCAT;
9. Amend the Anti-Torture Act to provide a time limitation for filing appeals by the perpetrators;
10. Rules should be promulgated under section 20 of the Act;
11. Amend the Anti-Torture Act to Reflect customary international law, in the form of inclusion of superior or command responsibility (all 3 elements), is needed, in order to match the international standards;
12. Undertake public education programme to ensure greater awareness of the Anti-Torture Act;
13. Sensitise public officials on their obligations to prevent and punish torture and ensure training and human rights education for them (Article 10);
14. Organise training programmes for judges, public officials, prosecutors, forensic doctors and medical personnel and NHRC staff members, who deal with arrested and detained persons;
15. Ensure complete separation of judiciary from executive and influence of other organs of the state;
16. Strengthen watchdog institutions like the NHRC,B and ensure adequate resources and capacity of members so that they can operate independently and effectively;
17. Responding to the pending requests and ensure visit to Bangladesh of the Special Rapporteur on Torture and CIDTP;
18. Establish an independent Commission of Inquiry to conduct investigations on reported incidences of torture since signing of the Convention and to make recommendations for reforms needed, to bring to justice those responsible and to ensure redress to victims.

VII Annexure

Annex 1: Allegation of custodial and extrajudicial killings by Law Enforcement Agencies

Allegations of Death in the custody of the Law Enforcing Agencies					
Documentation Unit, Ain o Salish Kendra (ASK)					
Period : 2004 - 2019 (May)					
Year	RAB	Police	Rab & Police	Other Forces	Total
2004	68	99	10	35	212
2005	109	258	3	7	377
2006	195	148	3	16	362
2007	91	74	3	12	180
2008	82	72	14	7	175
2009*	45	79	23	82	229
2010	65	50	8	10	133
2011	42	47	5	6	100
2012	42	40	3	6	91
2013	29	123	15	41	208
2014	37	91	1	25	154
2015	53	108	1	30	192
2016	55	119	0	21	195
2017	34	106	2	20	162
2018	136	255	0	75	466
2019	48	84	0	34	166
Total	1131	1753	91	427	3402
Note: Other Forces is Army, Coast Guard, Joint Forces, BGB, Cheeta & Cobra, DB Police, Ansar, BGB					
*78 people were killed by shooting in the BDR mutiny in 2009.					
Source: Prothom Alo, Ittefaq, Janakantha, Inqilab, Jugantor, Samakal, Daily Star, New Age, Independent, Sangbad, Noyadiganto, Amar Desh and information collected by ASK.					

Annex 2: Allegations of Abductions

Allegations of Abduction by Law Enforcement Agencies (as claimed by family members and eye witnesses)								
Documentation Unit, Ain o Salish Kendra (ASK)								
Period : 2007 - 2018 (December)								
Year	Abduction	Dead Body recovered after Abduction	Released after Abduction	Handed over to the Police after Abduction	Found in DB Police Office	Sent to Jail	RAB informed about the arrest and presented the person in front of the media	'Shown Arrested' after Abduction
2007-2009	21	3	0	0	0	0	0	0
2010	47	6	6	1	0	0	0	0
2011	59	16	4	0	0	0	0	0
2012	56	4	8	6	3	1	0	0
2013	72	5	4	4	0	2	0	0
2014*	88	23	14	0	1	2	7	1
2015	55	8	5	0	0	0	0	7
2016	97	11	3	0	0	0	0	26
2017	60	2	7	0	0	0	0	8
2018	34	0	2	0	0	0	0	17
Total	589	78	53	11	4	5	7	59
Note: Incidents of abduction, which allegedly occurred in 2013, were reported in newspapers in 2014. These allegations of abduction are included in the columns for 2013								
*Two of the abducted persons came back on 16.03.2015 (Ittefaq, 19.3.15)								
Source: Prothom Alo, Ittefaq, Janakantha, Inqilab, Jugantor, Samakal, Daily Star, New Age, Independent, Sangbad, Noyadiganto, Bhorer Kagoj, Dhaka Tribune, Amar Desh and information collected by ASK.								

Annex 3: Alleged Deaths during ‘War on Drugs’

Charted below are the day-to-day statistical records of the extrajudicial killings during the anti-drug-drive in the name of “crossfire” from 15 May 2018 - 31 May 2019, as has been documented by Ain o Salish Kendra (ASK)’s Documentation Unit.

Date	Deaths
16 May 2018	2
17 May 2018	2
18 May 2018	3
19 May 2018	1
20 May 2018	3
21 May 2018	4
22 May 2018	9
23 May 2018	12
24 May 2018	9
25 May 2018	10
26 May 2018	9
27 May 2018	9
28 May 2018	8
29 May 2018	11
30 May 2018	12
31 May 2018	15
01 June 2018	4
02 June 2018	1
03 June 2018	3
04 June 2018	3
05 June 2018	1
06 June 2018	4
07 June 2018	2
08 June 2018	1
09 June 2018	2
12 June 2018	2
13 June 2018	2
15 June 2018	1
19 June 2018	3
21 June 2018	1
22 June 2018	1
23 June 2018	2

24 June 2018	2
26 June 2018	1
27 June 2018	1
28 June 2018	2
01 July 2018	1
04 July 2018	1
05 July 2018	3
07 July 2018	1
08 July 2018	1
09 July 2018	3
10 July 2018	1
11 July 2018	2
12 July 2018	7
14 July 2018	3
16 July 2018	2
17 July 2018	2
20 July 2018	2
21 July 2018	3
22 July 2018	4
25 July 2018	3
26 July 2018	2
27 July 2018	4
28 July 2018	1
29 July 2018	1
30 July 2018	2
31 July 2018	1
02 August 2018	2
06 August 2018	1
08 August 2018	1
09 August 2018	1
10 August 2018	1
11 August 2018	1
14 August 2018	1
15 August 2018	2
18 August 2018	1
21 August 2018	2
25 August 2018	1
27 August 2018	1

29 August 2018	2
05 September 2018	2
06 September 2018	1
08 September 2018	1
12 September 2018	1
14 September 2018	1
17 September 2018	2
18 September 2018	1
19 September 2018	2
20 September 2018	1
23 September 2018	1
24 September 2018	1
25 September 2018	1
27 September 2018	1
29 September 2018	1
30 September 2018	1
01 October 2018	3
08 October 2018	1
13 October 2018	1
14 October 2018	1
15 October 2018	1
16 October 2018	1
17 October 2018	1
21 October 2018	2
28 October 2018	1
29 October 2018	2
30 October 2018	1
01 November 2018	2
03 November 2018	2
04 November 2018	2
06 November 2018	1
07 November 2018	1
08 November 2018	1
09 November 2018	1
11 November 2018	1
15 November 2018	1
16 November 2018	1
17 November 2018	1

19 November 2018	1
21 November 2018	2
23 November 2018	5
26 November 2018	1
02 December 2018	1
03 December 2018	1
08 December 2018	2
15 December 2018	1
19 December 2018	2
03 January 2019	2
04 January 2019	1
05 January 2019	1
09 January 2019	2
11 January 2019	2
21 January 2019	1
22 January 2019	1
25 January 2019	2
27 January 2019	1
31 January 2019	1
18 February 2019	2
21 February 2019	3
23 February 2019	4
27 February 2019	1
28 February 2019	1
01 March 2019	1
02 March 2019	4
04 March 2019	1
12 March 2019	1
15 March 2019	1
22 March 2019	1
23 March 2019	3
28 March 2019	2
29 March 2019	2
31 March 2019	1
01 April 2019	3
02 April 2019	1
12 April 2019	2
14 April 2019	1

21 April 2019	2
23 April 2019	3
24 April 2019	1
25 April 2019	3
27 April 2019	1
28 April 2019	1
01 May 2019	1
04 May 2019	1
05 May 2019	1
06 May 2019	1
08 May 2019	2
09 May 2019	1
10 May 2019	2
12 May 2019	1
13 May 2019	1
15 May 2019	3
17 May 2019	2
19 May 2019	1
21 May 2019	1
24 May 2019	1
25 May 2019	1
30 May 2019	2
Total	370

Annex 4: Allegation of Torture, Extrajudicial Killing, Enforced Disappearance by Law Enforcement Agencies.

(Collected from newspaper reports and member organisation's investigation report)

1. **Muhammad Abdul Hakim**, (55), a meat trader, was reportedly beaten to death during a raid on 24 May 2019 in the district of Tangail. On 25 May 2019, Police officials in Tangail said sub-inspector Abu Taher, assistant sub-inspector Ashraful Alam and six constables of Gopalpur police station were withdrawn from their duties following Abdul Hakim's death while the police headquarters ordered an inquiry into the Abdul Hakim's death forming a three-member probe committee, led by Additional Superintendent of Police (Sadar) Masudur Rahman Monir. . Assistant Inspector General of police (Media and Public Relations) Sohel Rana promised that stern action would be taken if any negligence or unprofessionalism is identified in the inquiry report. He added that they have learnt that Hakim fell sick when he was being taken to the police station and had died from chronic cardiac problem. Tangail Police Superintendent, Sanjit Kumar Roy, said that further action will be taken as soon as the probe committee turns in their report. Besides, a medical inquiry committee, headed by Gopalpur Upazila Health Family Planning Officer, Dr Alim Al Razi, was also formed. The committees have been asked to submit their reports within five working days. Meanwhile, on 24 May 2019 due to pressure from locals and the Gopalpur Upazila Nirbahi Officer (UNO), Bikash Biswas, an initial report was prepared. Gopalpur police station Officer-in-Charge (OC), Hasan Al Mamun, said that post-mortem on the body was conducted at Tangail General Hospital and the body was handed over to the family. The victim's maternal uncle Hayder Ali alleged that police beat up Hakim.⁹⁴

Locals from Jhawail village have staged protests on the Gopalpur-Jhawail road. Jhawail villagers brought out a procession and blocked the upazila road near the hospital demanding punishment of the cops. Hakim's family have demanded exemplary punishment of the policemen who reportedly beat him. Upazila Parishad Chairman Rafiqul Islam Talukdar of Jhawail union parishad said, 'We need a swift investigation into the matter to determine what exactly happened that led to his demise.'

2. On 07 May 2019, forensic officials at Dhaka Medical College said that they had found marks of injury in both the legs of victim's body, **Md Ashraf Ali alias Aslam**, 42, son of Abdus Samad of Char Pakerdahar under Madarganj upazila in Jamalpur, who died on 06 May 2019 while in the custody of Dhaka Metropolitan Police's Detective Branch. Dhaka Medical College Forensic Department Head, Sohel Mahmud, who led a three-member team of forensics to conduct the post-mortem examination, informed that the 'victim's intestines were found entwined.' Additional Commissioner (Detective Branch) of the Metropolitan police (Detective Branch), Devdas Bhattacharya, however, claimed that Aslam had fallen sick on the way to Detective Branch office after being picked up and was then taken straight to Rajarbagh Police Lines Hospital. The police officer also said that Aslam was 'not in their custody' as he was neither arrested nor taken to Detective Branch office.⁹⁵

⁹⁴ Abdullah Al Numan, 8 policemen withdrawn from duty over meat trader's death in Tangail Dhaka Tribune (Tangail, 25 May 2019) <<https://www.dhakatribune.com/bangladesh/nation/2019/05/25/8-policemen-withdrawn-from-duty-over-meat-trader-s-death>> accessed 16 June 2019.

⁹⁵ <<http://www.newagebd.net/article/40665/injury-marks-found-in-victims-legs/articlelist/323/index.php>>

3. On the night of 15 December 2018, police arrested **Jamal Uddin Ripon**, 45, who was accused in several cases, and was taken to Jatrabari Police Station.⁹⁶ On 16 December 2018 he was declared dead by the Dhaka Medical College and Hospital, hours after his arrest.

OC Kazi Wajed Ali said that Ripon was taken to Jatrabari Police Station after his arrest from the Kajla Sheikhi Bazar area on 16 December 2018. He shared that when Ripon, complained of chest pains, he was immediately taken to a local hospital. His relatives were also informed of his illness. But the cause of the death would be confirmed after receiving an autopsy report.’ According to the police, Ripon was a local cable television trader and had no record of political involvement.⁹⁷

4. The body of a youth, **Kawsar**, 19, arrested on charge of rape of an apparel worker, was found hanging in a lock-up at Rupnagar police station on 28 September 2018, although the police claimed that he committed suicide. Rupnagar OC Sheikh Mohammad Shah Alam said that the suspect committed suicide. ‘He used his shirt to hang himself from the rods on lock-up door,’ said Shah Alam. He said that Kawsar was the only accused in the lock-up during the incident. Kawsar was rushed to Shaheed Sohrawardy Medical College and Hospital immediately where doctors declared him dead.⁹⁸

Police received information over emergency call service ‘999’ on 27 September 2018 midnight that local people of Duarypara area detained a ‘rapist’, said Shah Alam, officer-in-charge of the police station. Based on the information, a police team went there and rescued the youth and the victim, he added. Subsequently, the victim filed a case with the police station, and was sent to the One Stop Crisis Centre (OCC) of Dhaka Medical College Hospital. The OC added that Kawsar was kept under police custody,⁹⁹ who had confessed to the rape after his arrest.

5. **Abdur Razzak**, a man in his thirties, succumbed to his injuries on 17 August 2018 while undergoing treatment at Rajshahi Medical Collage Hospital in police custody, ten days after he was beaten up and handed over to police for his alleged involvement with drug business in Rajshahi. Local people caught Abdur Razzak, son of Mohammad Islam of Shiroil Colony Hazrapukur area in the city, with drugs and handed him over to the police on 06 August 2018 night after beating him, said Humayon Kabir, officer-in-charge of Chandrima Police Station of the city. Locals seized 48 Yaba tablets from Razzak and police showed him arrested in a drug case on 08 August. Razzak’s younger brother, Mohammad Shahin, claimed that drug peddlers of the area forcibly took him by a nearby pond from their house on the night of 06 August 2018 and beat him severely with iron rods and hammers, left him critically injured and then handed him over to police. He claimed that his brother was not involved with drug business and was beaten up as he protested against the drug peddling in the area. Shahin also added that his brother gave him names of eight persons who had beaten him. However, when he wished to file a complaint, the Chandrima police refused to register it. He said that he would file a murder case in this connection.

6. **Kajol Sheikh Maju**, 43, son of Hazrat Ali of New Market area in the town of Baniapara area of Panchagarh, a suspected drug addict, died of heart attack on 03 June 2018 in police

⁹⁶ <<http://www.newagebd.net/article/59071/articlelist/323/article/article/35972>>

⁹⁷ <<https://bdnews24.com/bangladesh/2018/12/16/man-dies-in-police-custody-in-dhaka>>

⁹⁸ <<http://www.newagebd.net/article/51843/rape-accused-dies-in-rupnagar-police-custody>>

⁹⁹ <<https://www.daily-sun.com/post/339395/2018/09/29/Rape-accused-%E2%80%98kills-self%E2%80%99-incop-custody>>

custody. A team of Detective Branch of Police, led by sub-inspector Rabiul Islam, arrested Maju in the area around 10:30 pm on 02 June 2018. Later, Maju felt chest pain while being transferred to be produced before a mobile court.

However, the police claimed that he was taken to Panchagarh Adhunik Sadar Hospital where he died around 12:30 am. Zillur Rahman, a physician of emergency department of the hospital, said they were suspecting that Maju died of heart attack.¹⁰⁰

7. On 24 May 2018, **Rasel Miah**, a teenage boy who jumped off the Sadar model police station building in Brahmanbaria after his arrest on 21 May 2018 night, died at Dhaka Medical College Hospital. The deceased was the son of Robi Miah, resident of Madhyapara area of the district town. He was a night guard of the ATM booth of Shahjalal Islami Bank Limited's Brahmanbaria branch. Police claimed that on 21 May 2018, they arrested Rasel in a case filed over the burglary at clothes store of 'Swapnalok Fashion House' at City Centre of the town. He, however, jumped off the rooftop of the police station building that night, leaving him critically injured. The teenager was first taken to Sadar Hospital and then sent to the Dhaka Medical College Hospital upon deterioration of his condition where he died in the early hours.¹⁰¹ His uncle Khabir Miah claimed that he was severely beaten, before he jumped from the rooftop to avoid police torture. The police however denied the allegation of torture. Iqbal Hossain, Additional Superintendent of Police, said police arrested Rasel and others by viewing CCTV footage installed in parts of the city. "He jumped from the third floor of the building around 9 am as he tried to flee." Brahmanbaria Police Station Chief Ziaul Haque has informed that an investigation into the matter has been initiated.¹⁰²

8. **Modon Chandra Milon**, 30, accused in the murder of lawyer Rathis Chandra Bhowmik, died in the prison cell of Rangpur Medical College Hospital on 13 April 2018. The deceased, Modon Chandra Milon of Dimla Bororangpur of Rangpur city, assistant and motorbike driver of Rathis Chandra Bhowmik, died nine days after he was shown arrested on 4 April night in the case filed regarding the murder. Milon's family, however, alleged that police picked up Milon on 2 April and produced him before a court on 5 April, a day after Rathish was found dead. 'He was beaten severely in detention and when he was produced before the court he was very sick,' one of Milon's family members alleged. The Jailer of Rangpur Central Jail, Amzad Hossain, said that Milon was brought to jail on 5 April night and he was suffering from illness. 'We sent him to the prison cell of Rangpur Medical College Hospital the same night for treatment. He died at the hospital on 13 April 2018 while under treatment,' he said.

9. On 29 October 2017, **Sohel Rana alias Russell**, 26 was beaten to death in police custody in Rangpur, as was alleged his family members. He died around 10:00 am at Rangpur Medical College Hospital (RMCH). But Sohana Moni, elder sister of Sohel Rana, said law enforcers picked up her brother from their house in Haldibari around 10:00pm on 28 October 28. The police also demanded Tk 1.5 lakh for his release, she added. They killed him as the family refused to give the money, she alleged. "We demand punishment of the police officials responsible for my husband's death," said Runi Begum, Sohel's wife.¹⁰³

¹⁰⁰ <<http://www.theindependentbd.com/printversion/details/152594>>

¹⁰¹ <<http://www.newagebd.net/article/42039/teenager-who-jumped-off-brahmanbaria-police-station-dies>>

¹⁰² <<https://bdnews24.com/bangladesh/2018/05/24/teenager-dies-in-brahmanbaria-police-custody>>

¹⁰³ <<http://www.thedailystar.net/backpage/man-dies-police-custody-1483612>>

10. On 08 October 2017, **Saidur Rahman**, 38, was allegedly beaten to death by police during a raid in Kalai upazila of Joypurhat. According to the family members, a team of police from Kalai Police Station raided the home of Saidur Rahman at Harunza village around 5:30 am to arrest his brother. Saidur Rahman had an altercation with the police over the arrest. The law enforcers, in retaliation, allegedly beat him up with batons inside the house. Saidur fell to the ground and became unconscious. The police team took him to Kalai upazila Health Complex where he was declared dead.¹⁰⁴

11. On 18 May 2017, a former leader of Bangladesh Chhatra League, the student wing of ruling Awami League, was found hanging in police custody at Jaintapur police station in Sylhet. The deceased was identified as **Nazrul Islam Babu**, 32, son of Abdul Jalil, of village Chiknagul Kohaigor in Jaintapur upazila.¹⁰⁵

12. On 1 December 2017, **Mahim Uddin** alias Mahin a Shibir leader was killed in a 'shootout' with members of Rapid Action Battalion (RAB-7) at Panchlaish area. Later, he was sent to Chittagong Medical College Hospital (CMCH) where the on-duty doctors declared him dead, said the RAB officer.¹⁰⁶

13. On 16 September 2017, **Saidur Rahman** a madrasa superintendent reportedly died of police torture in Satkhira. The family of victim complained that the 48-year-old succumbed to the injuries he suffered because of torture in police custody. Victim's nephew Muttasim Billah said Saidur was picked up by the law enforcers from his house at Kathonda village in Satkhira at about 1:00 am on 15 September. They started beating him and dragged him in a vehicle to take him to a police station. They took Saidur to a local doctor's chamber at Kathonda Bazar, which is halfway to the police station, as he fell seriously ill. He also complained that the police members demanded Tk one lakh for his release. The victim's wife Sajeda Khatun said she saw torture marks on her husband's body while she visited him at Satkhira Sadar Police Station's lock-up later in the day. She said her husband had also told her about the tortures.¹⁰⁷

14. On 18 September 2017, expatriate **Majharul Islam**, 30, was brutally killed by a RAB commander, 20/25 unnamed personnel of his team and eight locals, on 8 September. Such was alleged by his family members after suing them. Majharul's wife Shamima Akter Swapna, in a case filed with a Naogaon Court, accused Sayeed Abdullah Al Murad, company commander of the Rab-5 camp of Joypurhat. Some plainclothes officials led by the RAB company commander started beating up Majharul after detaining him near his house, claimed his wife's Swapna in her case. Minutes later, they took him inside the house and hit him with sticks and rods locking him in the bedroom. The plainclothesmen, some of them wearing lungi and t-shirts and some with long hairs, also dragged him through the village roads and beat him openly terrorising the areas, she said.¹⁰⁸

15. On 07 February 2017, a youth was found dead on the banks of Titas River in Brahmanbaria town. His body bore several bullet marks, said police. According to the law enforcers, the youth, **Al Amin**, 28, was a drug dealer. He was killed in a 'gunfight between two

¹⁰⁴ <<http://www.thedailystar.net/country/man-killed-joypurhat-police-raid-bangladesh-1473763>>

¹⁰⁵ <<http://www.mzamin.com/article.php?mzamin=66109&cat=3/>>

¹⁰⁶ <<http://www.observerbd.com/details.php?id=108894>>

¹⁰⁷ <<http://www.newagebd.net/article/24237/teacher-dies-of-police-torture-family>>

¹⁰⁸ <<https://www.thedailystar.net/frontpage/death-rab-custody-family-says-it-was-murder-1464187>>

rival groups of drug peddlers.’ His wife, Tanzina Akter, however, rejected the claim and accused the police of killing Al Amin, son of late Zillur Rahman.¹⁰⁹

16. On 13 November 2017, a woman filed a case with a magistrate court in Jessore accusing 16 cops, including 7 officials, of being involved in the enforced disappearance of her only son in early April from Jessore district town. The cops were posted to Jessore Kotwali Police Station when the alleged offense was committed, according to the case statement filed with Senior Judicial Magistrate, Shahinur Rahman by Hira Khatun, wife of Tauhidul Islam Khokon of Shankarpur in Jessore town. In the complaint, the plaintiff stated that her only son, **Md Syeed**, disappeared after the cops picked him up. Ajit Kumar Das, the lawyer of the complainant, shared that the plaintiff suspected that Syeed had been killed by the cops as she did not pay Tk 2 lakh demanded by the police personnel. ‘On 30 March 2017, a central leader of Jatiyatabadi Chhatra Dal (JCD) was found murdered on the banks of the Karnaphuli River in Raozan upazila of Chittagong district hours after he was picked up allegedly by law enforcers from his home in the port city on 29 March 2017. **Nurul Alam Nuru**, 40, was shot twice in the head. His hands were tied with rope and there were several injury marks on his body. Family members and local BNP leaders said Nuru, Assistant General Secretary, JCD, was picked up by 10 people five each in police uniform and plainclothes from his rented home in Chandanpura area around 11:30 pm on 29 March 2017. On 30 March 2017, some locals noticed a body on the river banks in Thelar Char area. BNP leader Gias Uddin claimed the family members of the victim identified SI Javed (Sheikh Javed Mia) of Raozan Police Station as one of those who had picked up Nuru. He said Nuru was accused in several political cases but was not a criminal. “He was murdered because of his political identity.”¹¹⁰

17. On 09 December 2017 two people, **Al Amin**, 34, and **Saddam**, 25, were killed after disappearance by DB police in the capital’s Badda. Shaikh Nazmul Alam, family of Saddam alleged that some people, identifying themselves as detectives, picked up Saddam, a resident of city’s Rampura, from his father-in-law’s house in Comilla on 26 December. Al Amin’s family alleged that law enforcers picked him up from Tongi on 02 December. But police denied the allegation.

18. On 01 November 2017 a bullet-wounded body was recovered from Baterdighirpar area of Balaishpur in Lakshmipur Sadar. The deceased was identified as **Masum Billah** alias Laden Masum. Chandraganj police OC Md Moktar Hossain said Masum was killed during the gunfight between two gangs of criminals. On the other hand, a family of the deceased claimed Masum was killed by police firing. They said that Law enforcers arrested Masum at Gulistan in Dhaka on 29 November. He was implicated in cases as Masum was involved with the politics of Jatiyatabadi Juba Dal, youth body of Bangladesh Nationalist Party, the family claimed.¹¹¹

19. On 26 September 2017, an Awami League activist was killed in a so-called “gunfight” between police and his cohorts in an isolated char area in Kushtia. Family members said victim **Miraz Hasan Teny**, 26, had been arrested on 11 September from Charpara village in Mirpur upazila of the Kushtia. The victim was a close associate of Kamarul Arefin, Awami League

¹⁰⁹ <<http://www.thedailystar.net/backpage/bullet-hit-body-youth-found-1357558>>

¹¹⁰ <<http://bangla.samakal.net/2017/03/30/281127#sthash.JTKmMHXh.dpuf>>

¹¹¹ <<http://www.newagebd.net/article/27487/murder-accused-killed-in-lakshmipur-gunfight>>

General Secretary of Mirpur upazila and also chairman of the upazila, police and family members said.¹¹²

20. On 24 August 2017, a union level Jatiyatabadi Jubo Dal leader was killed in “shootout” incident by law enforcement agency, two days after he was picked up from his residence at Begumganj upazila in the Noakhali. **Md Alam**, 35, son of Abul Quashem of Dhitpur village, was the Joint Convenor of Alaipur Union unit, Jubo Dal. His wife, Pushpa Begum, claimed that police killed him after arresting him because of his affiliation with BNP politics and cooked up the story of “shootout”. She, however, said a group of plainclothes men picked up her husband on the morning of 22 August. Pushpa said she and other family members went to Begumganj police station, detective offices at Noakhali and Laxmipur districts and RAB Camp at Laxmipur in search for Alam but law enforcers denied picking him up. On 23 December 2017, Bangladesh Kalyan Party Secretary-General, **MM Aminur Rahman**, who went missing around four months ago, was then shown arrested in an explosives case filed in 2015. Aminur had gone traceless after he came out of the office of Kalyan Party in Paltan to go to his home in Savar around 10:00 pm on 27 August, said his relatives and leaders of the party, an ally of BNP. Aminur’s family members filed a general diary with Paltan Police Station on 30 August. Police had been looking for him since then, they said. Major General (retd.), Syed Muhammad Ibrahim, Chairman, Kalyan Party, told that Aminur was abducted by law enforcement agencies to “thwart the progress of the party”.¹¹³

21. On 25 October 2017, seven officials of the police’s DB have been suspended for allegedly kidnapping a local businessman and collecting Tk17 lakh in ransom money in Cox’s Bazar. They were caught at Teknaf by army personnel at one of their check posts at Shaplapur on the Teknaf-Cox’s Bazar Marine Drive Road. The Tk17 lakh ransom money was recovered from them during the stop and search, following which the seven policemen were detained, said Monirul Islam, officer-in-charge (OC) of the DB district unit. The detainees were identified as Sub-Inspectors Moniruzzaman, Abul Kalam Azad and Firoz Ahmad, Assistant Sub-Inspectors (ASI) Mostafa and Alauddin, Constables Mostafa Azam and Al Amin. After the suspension, they were sent to Cox’s Bazar Police Lines later, said OC Monirul. OC Monirul said the family of businessman Abdul Gafur had lodged a complaint on 25 October claiming he was picked up by DB officers and they were demanding ransom. Gafur said he was whisked away from outside a restaurant in Cox’s Bazar town by men identifying themselves as DB officials. He alleged that the abductors had tortured him for hours and later threatened to kill him. The policemen had demanded Tk1 crore as ransom at first, but later agreed to release him against Tk17 lakh, Gafur said. He was set free in the early hours of October 25 after his family paid the money. Gafur’s brother Moniruzzaman, councilor of Teknaf Municipality, said they had informed the army about the matter after the abductors threatened to kill him and demanded ransom. “After my brother was released, the army has recovered the money as well.” He demanded stern punishment of the DB officials involved in the kidnapping.¹¹⁴

22. On 30 December 2017, **Syed Sadat Ahmed**, central executive committee member of the BNP and the managing director of ABN Group, who had allegedly been missing for around four months, was shown arrested by DB Police in a case filed in 2015 with Ramna Police Station in

¹¹² <<http://www.samakal.com/todays-print-edition/tp-lokaloy/article/17094603/>>

¹¹³ <<http://www.thedailystar.net/frontpage/missing-kalyan-party-leader-now-custody-1509415>>

¹¹⁴ <<http://www.dhakatribune.com/bangladesh/crime/2017/10/25/db-suspended-kidnap-coxs-bazar/>>

connection with carrying out subversive activities, Deputy Commissioner of DB (South) Md Shahidullah told. Syed Sadat Ahmed was picked up by LEA from the Banani Flyover area around 3:00 pm on 22 August, his family says. He was forced out of his car and into a microbus under the Banani overpass, according to his father Colonel (retd.) Syed Sahabuddin Ahmed. Sadat Ahmed was driving his car with his son, Mehedi Zaman and a caretaker, his father said. “A microbus blocked their way under Banani overpass at 3 pm. Some plainclothes men got out of the microbus and forced Sadat inside their vehicle,” his father said.¹¹⁵

23. A 65-year-old tanner died in police custody on 21 November 2017 two days after he was picked up with his two sons and two nephews from their house at Hazaribagh in Dhaka on Sunday night over a robbery case was filed by one of their neighbours. The tanner, Shah Alam, of Lakshmipur origin, fell sick during a court hearing in the Old Town of Dhaka. He was first taken to nearby National Medical College Hospital, but doctors referred him to Dhaka Medical College Hospital as his condition deteriorated. Dhaka Medical College Hospital doctors declared him dead at about 5:30 pm. Shah Alam was one of the owners of FM Leather Complex. Hazaribagh police OC Mir Alimuzzaman claimed Shah Alam was made accused in a robbery case filed by his neighbour Abdur Rahman.

24. On 25 April 2017 **Romel Chakma** (19), son of Binoy Kanti Chakma of Purba Hatimar Village at Naniarchar Upazila under Rangamati district was killed after torture by the army of 305 infantry brigade. The mortal remains of Romel Chakma were destroyed using petrol and kerosene without returning the dead body to his parents. The Supreme Court of Bangladesh ruled against extrajudicial killings. HSC examinee Romel, was the general secretary of UPDF-backed Pahari Chhatra Parishad’s Naniarchar upazila unit. He was picked up by the local army personnel on 05 April and handed over to the police in critical condition in the evening. The next morning, police and army personnel admitted him to the CMCH where he died on April 19. The autopsy report has not been released as of Thursday.

On 5 July 2014, while on a visit to Rangamati town, members of the International Commission on the CHT visiting Rangamati, were not allowed to investigate incidents of human rights violations of Romel Chakma by or on the instructions of the army. Very recently, the army did not allow a team of civil society representatives to visit Naniarchar of Rangamati on 25 April 2017 to meet the parents and relatives of Romel Chakma.

On 6 April, Romel’s father Binoy Kanti Chakma wrote to the NHRC chairman demanding justice for the “inhuman torture” inflicted upon his son by the army personnel. The NHRC did not respond immediately, but formed the probe body on 24 April five days after Romel died during treatment at Chittagong Medical College Hospital (CMCH). The two other members of the committee were NHRC Rangamati office Deputy Director Gazi Md Salahuddin and Executive Magistrate Alimuzzaman. The committee had to be reconstituted due to the transfer of Alimuzzaman. In a statement issued on 24 April, NHRC Chairperson, Reazul Haque, said that, “It is a serious violation of human rights to kill an innocent person by inhuman torture.” He said that they would recommend exemplary punishment if the allegations against the army personnel were found to be true during investigation.

Romel’s father alleged that they were barred from meeting him at the camp as well as at the hospital. The couple was also not allowed to join the cremation, held under the supervision of the

¹¹⁵ <<http://www.prothomalo.com/bangladesh/article/1397966/>>

upazila administration and the police. The army refuted the allegations of torture, and insists that Romel had been sick at the time of his detention for questioning in an arson case filed with Naniarchar police. The army's media wing Inter-Services Public Relations Directorate (ISPR) later claimed that Romel had masterminded the attack in which two buses were looted and a truck torched in the area on 23 January.

Different indigenous people's groups, student bodies and UPDF (United People's Democratic Front) have demanded a judicial inquiry to unearth the reasons behind Romel's death terming the detention and torture unjust, and an end to the culture of impunity enjoyed by the army in the Chittagong Hill Tracts region for decades. International CHT Commission has written to the Home Ministry demanding a judicial inquiry. The UPDF has alleged that the army is spreading false information about the indigenous groups to legitimise the killing of Romel Chakma and arbitrary arrests, and to thwart their movement demanding quick implementation of the 1997 CHT Accord.¹¹⁶

25. On 18 July 2017 at around 8.00 pm, **Shah Jamal alias Shahjalal** (31) stepped out from his in-laws house of Railbosti, Goalkhali under Khalishpur police station to buy baby food for her daughter. At around 9.00 pm, an incident of mugging happened at Goalkhali bus stand. Mob caught one of the alleged and handed him over to police after beating up. At that time police detained Shahjalal from Goalkhali crossing and took him to the Khalishpur police station. Rahela Begum, the wife of Shahjalal along with her mother went to meet him at police station at around 10.30pm after being informed by locals. But police did not allow them to meet with Shahjalal and they kept waiting in front of the police station. At one point they saw police were taking him away in police pick up. According to Rahela Begum, Shahjalal seemed fine except simple hurt in his body, mostly his eyes were normal. But on next morning in Khulna Medical, she found his eyes were gouged and bleeding. At present, Shahjalal is admitted to Dhaka Medical College Hospital under observation of jail police.

According to Rahela Khatun, wife of the victim, "on the day of the incident, 18 July 2017 (Tuesday) my husband left house at the evening to buy milk for my 10 months old baby girl. After a while some local boys came and informed us that two police officers namely Rasel and Mamun have taken him (Shahjalal) away." As per her statements, later on, she and her mother went to a local political leader, after which the leader called the OC of Khalishpur Thana, who then demanded Taka One lakh over phone. When they expressed their helplessness and offered taka 10/15 thousands, the OC replied that they will release Shahjalal by night and won't charge any money. Accordingly to the suggestion of the leader, they went to the police station by 10.30pm. However, they were not allowed to enter the police station and kept waiting before the Thana gate. At nearly 11.30pm they found Shahjalal along with three police who picked him up in a police van. They ran to him, Shahjalal cried out that he was highly beaten up by the police and requested Rahela to inform his father Jakir Hossain. Rahela noticed that there were few visible sign of torture in Shahjalal's body but his eyes were completely fine till then. When they bribed a police with Tk100 and asked about where they were taking Shahjalal, he informed that they were taking Shahjalal to Khulna Medical for treatment. Later on, they found Shahjalal in the floor of Khulna Medical with bandage in his eyes and it was bleeding. She added that, Shahjalal

¹¹⁶

<<https://www.dhakatribune.com/bangladesh/2017/04/21/romel-chakma-death-pcp-declares-blockade-rangamati/>>

told her that police took him to the Khulna Biswa Road and gouged out his eyes. He further added that all of them were in plain clothes except the driver of the police van.

According to Dr. Mustaq, an intern doctor of Khulna Medical, who was in duty of the ward when Shahjalal was brought to the medical by police informed ASK investigating team that Shahjalal was grievously injured then and his eyes were gouged out. They referred him to the Dhaka Medical College for better treatment. He also added that at that time a good number of members of LEA's were present in the ward. He further clarified that though the victim's eyes were gouged out; there were no other sign of bodily injury as supposed to be expected after mob beating.

Khalishpur Police Station OC Nasim Khan denied the allegation of gouging out the eyes of Shahjalal. According to him this allegation is baseless. He added that Shahjalal was attacked by the bystanders of Goalkhali bus stoppage as a snatcher and they rescued him. Shahjalal could be dead if Police reached after few minutes. He identified Shahjalal as a professional criminal and informed that Shahjalal was wanted in eight cases of Khulna, Khalishpur and Pirojpur.

One case was filed at Khalishpur Police station on the incident. On 19 July 2017 a police case under Section 4 and 5 of Law and Order Disruption (Speedy Trial) (Amendment) Act, 2014 was filed by Shumi Akter against Md. Shahjalal alias Sahahjamal and Shuvo by name.

Renu Begum, mother of Sahjalal filed a case against 13 members of LEA's in Khulna Metropolitan Magistrate Court.¹¹⁷

26. On 24 December 2016, acting convenor of Bangladesh Nationalist Party (in brief 'the BNP'), Siddhirganj Thana Unit, **Ali Hossain Proadhan**, 65, who was arrested for alleged involvement with subversive activities, died in prison. Around 3:00 am, Ali complained about chest pain and within half an hour, he was admitted to Narayanganj Sadar Hospital. About 5:00 am, doctors declared him dead and as per the death certificate he died of heart attack, said Jailer of Narayanganj District Jail Asaduzzaman. His family claimed that Ali died due to negligence of the jail authority.¹¹⁸

27. On 11 November 2016, **Mohammad Gausul Azam Dollar**, general secretary of Gaibandha district unit Bangladesh Nationalist Party, died in Gaibandha Adhunik Hospital during police custody. Md. Mahabubur Rahman, the superintendent of Gaibandha Jail told that Gausul suffered heart attack in the morning. Later, he was taken to the hospital where he died around 8:30 am.¹¹⁹

28. On 02 November 2016, a Jatiyatabadi Jubo Dal activist was killed in a "gunfight" between two criminal gangs in Begaritala of Monirampur, Jessore, police claimed. **Anisur Rahman**, the victim, 34, lived in Lauri village of Monirampur. However, Anis' cousin Babul Akhter alleged that some plainclothed police personnel picked up his cousin from his residence.¹²⁰

29. On 24 October 2016 two Jamaat-Shibir men were killed in a gunfight with police at Bypass road in Bhutiargati area of Jhenaidah Town. The victims are **Jahurul Haque**, Ameer of

¹¹⁷ <<http://www.askbd.org/ask/2017/12/03/police-allegedly-gouged-eyes-suspected-mugger-khalishpur-khulna/>>

¹¹⁸ <<http://www.thedailystar.net/city/bnp-leader-dies-police-custody-1335220>>

¹¹⁹ <<http://www.mzamin.com/article.php?mzamin=39951&cat=9/>>

¹²⁰ <<http://www.thedailystar.net/frontpage/jubo-dal-leader-killed-gunfight-1308676>>

Jhenaidah municipal unit of Jamaat-e-Islami and Tarik Hasan Sabuj, advisor to the Dhaka Metropolitan (West) unit of ICS. According to Additional Superintendent of Police, Jhenaidah, Azbahar Ali Sheikh, about 4.00 am, a patrol team attempted to stop three motorcycles on the road for their suspicious movement. Police challenged bike riders and in response they fired and threw bombs towards them, prompting them to retaliate that triggered a gunfight, the police officer claimed. Two victims received bullet injuries and others managed to flee away. Later they were taken to Sadar Hospital and doctors declared them dead.¹²¹

30. On 22 October 2016; a businessman **Golam Mostafa** (50) was kidnapped by some people using police identity at Amla Bazar union in Mirpur Upazila of Kushtia. He was an ex-secretary of the Amla Bazar Samiti. His niece Rubel Malitha told over the mobile phone that he (Golam Mostafa) went to the market to buy medicine and at that time some people took him away by motorcycle about 12 pm in civil dress. They contacted to Mirpur Thana and police lines, but police denied the fact. Officer-in-Charge of Mirpur Police Station said that they would investigate its authenticity.¹²²

31. On 01 October 2016, a leader of Jatiyatabadi Juba Dal, the youth wing of BNP, was killed in a ‘gunfight’ with police at Birulia, Savar, adjacent to the capital. The deceased is identified as **Shah-Alam Nayan**, 44, organizing secretary of Savar municipality unit of Juba Dal.¹²³

32. On 12 August 2016; a local leader of Jamaat-e-Islami, whom family claimed to have been picked up by some plain clothed policemen from Shailakupa Upazila around a week ago, was found dead at Jorapukur on the Harinakundu-Jhenidah road in Harinakundu Upazila. The deceased, **Idris Ali Panna**, was a resident of the village of Raghunathpur in the Upazila. He was also the former chief of Raghunathpur union Jamaat-e-Islam. Idris Ali’s family said he was a teacher of Hossain Ali Alim Madrassa of the village. He was also a marriage registrar of Raghunathpur Union’s Ward No. 7 and Imam of Mohishgari Jame Mosque at adjacent Shoilakupa Upazila. However, Idris’s family said a group of people claiming themselves as law enforcers took away Idris Ali in front of Ramchandrapur Police post at Shoilokupa Upazila on 4 August.¹²⁴

33. On 09 August 2016; **Ahmed Bin Quasem**, son of top Jamaat leader and convicted war criminal Mir Quasem Ali, was allegedly picked up by some unidentified men from his Mirpur DOHS home in the capital. “Five people rang our doorbell around 10:50pm. As I opened the door, they wanted to know whether Ahmed was home,” Tahmina Akhtar, the wife of Ahmed, told. “My husband wanted to know their identities. But they refused. And at one stage, they asked him to go with them and later took him away by a white microbus,” she said. Tahmina also said that while leaving, one of them said, “Don’t worry. We will return him.” Contacted, Dadon Fakir, officer-in-charge of Pallabi Police Station, said they have learned about the incident from the media. He, however, could not confirm it.¹²⁵

¹²¹ <<http://en.prothom-alo.com/bangladesh/news/126367/2-Jamaat-Shibir-men-killed-in-Jhenidah-%E2%80%98gunfight%E2%80%99>>

¹²² <<http://www.prothom-alo.com/bangladesh/article/1005657>>

¹²³ <<http://www.mzamin.com/article.php?mzamin=33822&cat=1>>

¹²⁴ <<http://www.mzamin.com/article.php?mzamin=26841&cat=9/>>

¹²⁵ <<http://www.prothom-alo.com/bangladesh/article/941539>>

34. On 19 July 2016, **Saiful Islam Mamun**, 22, son of Lutfor Rahman of Putimari village in Shaikhkupa Upazila was killed in a "gunfight" with police in Jhenidah Sadar Upazila. The victim is **S**. He was a final year student of Arabic literature department in the Islamic University, Kushtia. Saiful's body was sent to Jhenidah Sadar Hospital morgue for autopsy.¹²⁶
35. On 10 July 2016, a BNP man was killed in a gunfight with police in Satkhira. The victim, Oliullah Mollah, 40, was the general secretary of Kashimari Union BNP, Shyamnagar Upazila, claimed his brother Habibullah Mollah. Around 3:30 am, the alleged shootout took place in Ganghati area of the Upazila.¹²⁷
36. On 17 June 2016, **Golam Faizullah Fahim**, an accused for the charge of attempt to murder of a teacher in Madaripur, was killed in a 'gunfight'. The reported gunfight took place hours after Fahim, an 18-year-old college student from Dhaka, was put on 10-day police interrogation. Madaripur police super Sarwar Hossain said about 7:30 am they conducted a drive along with Fahim based on his statements in Miar Char area.¹²⁸
37. On 06 May 2016, in Laxmipur, a criminal was killed in a gunfight with the members of law enforcers in Sadar Upazila. The victim was identified as **Kawsar**. Chandraganj Thana OC AKM Azizur Rahman said, police arrested Kawsar at night. According to his statement, a team of law enforcers went to Latifpur village with Kawsar to recover arms. Sensing the presence of the team, Kawsar's associates opened fire to police forcing them to fire back that triggered a gunfight. At one stage, Kawsar was caught in the line of fire and died on the spot.¹²⁹
38. On 18 April 2016, **Asif Hasan**, 21, a leader of Bangladesh Chattra League (in brief 'BCL') died in police custody in Munshiganj. He was acting president of Kola Union BCL in Sirajdikhan Upazila. He was severely injured in an attack carried out by his "rivals" following an election feud held on April 22, said his family members. Habibur Rahman, father of Asif, alleged that Police arrested him instead of taking action against the attackers and he died due to their gross negligence.¹³⁰
39. On 07 April 2016, two alleged members of an outlawed group were killed in an "encounter" with members of RAB at Jugni Haat, Tangail. The dead are identified as **Fazlu** and his associate **Uzzal**. An incident of robbery took place in the area a few days ago, locals reported. On the basis of the information that a gang of criminals was making preparation for committing another robbery in the area, a RAB team raided the village around 1:00 am, said Mohi Uddin Faruqe, Rab-12 company commander in Tangail.¹³¹
40. On 04 April 2016, at least four persons were killed and 30 others injured in a clash between law enforcers and locals in Banshkhali Upazila, Chittagong over the installation of a coal-based power plant. The victims were identified as **Anwarul Islam**, 44, and his elder brother **Mortuza Ali**, 50, **Zaker Ahmed**, 50, and **Md Zaker**, 50, from Gondamara Union, said Habibur Rahman, additional superintendent of police, Chittagong District (South). Of them, Md Zaker

¹²⁶ <<http://www.dailynayadiganta.com/detail/news/137130#sthash.mKE9dkEe.dpuf>>

¹²⁷ <<http://www.ittefaq.com.bd/wholecountry/2016/07/10/75556.html>>

¹²⁸ <<http://www.prothom-alo.com/bangladesh/article/891634/>>

¹²⁹ <<http://www.mzamin.com/article.php?mzamin=8876&cat=1/>>

¹³⁰ <<http://www.mzamin.com/article.php?mzamin=10279&cat=9/>>

¹³¹ <<http://www.jugantor.com/online/country-news/2016/04/07/9193/>>

was declared dead after he was taken to Chittagong Medical College Hospital. There was a bullet mark in Zaker's abdomen, said Md Aminul Huq, a doctor who attended the victim.¹³²

41. On 10 March 2016; during a crackdown on the alleged robbers by the RAB and BCG in the Sundarbans, four people were killed in a gunfight. The victim has been identified as **Monir**, 35, chief of a robbers' gang called Nayan Bahini and his three accomplices Enam, Hassan and Gias. The “gunfight” took place about 6:30 am at Sarankhola range of the mangrove forest in Bagerhat district.¹³³

42. On 08 March 2016; a youth was killed in a “gunfight” with detectives at Khilgaon in the capital. Law enforcers identified him as **Pias**, 30, a member of banned militant outfit JMB. The “gunfight” took place around 3:30am near Khidma Hospital, said Kazi Mainul Hossain, officer-in-charge of Khilgaon Police Station.¹³⁴

43. On 13 February 2016, the family of a former leader of Bangladesh Chhatra League (BCL) alleged that Topu had been missing since some people identifying themselves as law enforcers picked him up more than two weeks ago from the capital's Bashundhara area. **SM Moazzem Hossain Topu**, 28, a former president of a ward-22 unit of BCL, was picked up by "plainclothes detectives" from a friend's flat on February 26, said the family members who formed a human chain in front of the capital's Jatiya Press Club for his return. Maruf Hossain Sorder, deputy commissioner (media) of Dhaka Metropolitan Police, told that they did not arrest him. An inhabitant of Rampura, Topu used to visit his friend's flat near Apollo Hospital at Block D of Bashundhara area, said his elder brother SM Moinul Hossain. Three men identifying themselves as detectives picked him up around 11:00 pm on that day, Moinul said, quoting Topu's friend Arnab. One of the men carried a pair of handcuffs, he added.¹³⁵

44. On 13 December 2015, a case was filed against unidentified personnel of RAB and DB of police with Rajpara police station in Rajshahi city after the disappearance of **Saifuzzaman Sohag**. The victim father said that RAB with the help of two DB men picked up RUET unit Chhatra League information and research affairs secretary Saifuzzaman Sohag, a mechanical engineering final year student of the university, at his house at Terokhadia Paschimparha in the city's Rajpara. The family of the missing BCL leader claimed that they received a phone call demanding Tk 100,000 as ransom.¹³⁶

45. **Abu Jar Gifari** and **Omar Faruk**, current students of Joypurhat Law College and Joypurhat Government College respectively was abducted at Gabtoli bus stand in the capital on 9 December 2015. On 8 December 2015, they were coming to Dhaka from jopurhat for treatment purpose by ‘Hanif Transports’. The witness said that both of the victims were abducted at gabtoli bus stand when they got down from thebus. The victim's families are alleged to law enforcing agency regarding this abduction. The victim family expressed their deep concern about their son's life at thecurrent perspective of thecountry. They expressed their demands at a press

¹³² <<http://www.thedailystar.net/frontpage/3-killed-30-injured-clash-over-power-plant-1204543>>

¹³³ <<http://www.jugantor.com/online/country-news/2016/03/10/6494>>

¹³⁴ <<http://newagebd.net/209860/jmb-commander-killed-in-city-gunfight/>>

¹³⁵ <<http://www.thedailystar.net/city/bcl-man-missing-18-days-510808>>

¹³⁶ <http://newagebd.net/184438/rab-and-db-sued-over-disappearance-of-bcl-leader/#sthash.fQA11xdv.dpuf>

conference on 12th December 2015 to law enforcing agency that their sons to get back their son safely.¹³⁷

46. On 16 August 2015, five indigenous youths were killed in a gunfight with the army at Baghaichhari of Rangamati. The dead are **Tatumoni Tripura**, 28, **Jackson Chakma**, 25, **Rupayan Chakma**, 24, **Kanti Marma**, 28, and **Babul Chakma**, 20. The bodies were taken to Khagrachhari Sadar Hospital for autopsies. A group of the army led by Major Ashik bin Jalil cordoned off Barada village on information that an armed gang took a position there, Siddiqui said. “Around 5:00am, the criminals started shooting at the troops. In response, the army fired shots. He said. The army claimed the victims were armed members of two regional political groups -- UPDF and JSS-MN Larma. The UPDF and the JSS, however, denied any link with those killed in the fighting.¹³⁸

47. On 06 August 2015, an alleged forest robber was killed in a ‘gunfight’ with members of Rapid Action Battalion in Alki of the Sunderbans in Koyra of Khulna. The deceased was identified as **Farhad**, 33, second-in-command of ‘Elias Bahini’. Khulna RAB-6 commanding officer Khalikuzzaman said on a tip-off that the forest robber gang was preparing to commit robbery in the area, a team of the elite force launched a drive there at about 7:30pm sensing the presence of RAB members, the robbers opened fire on them, forcing them to fire back that triggered a gunfight. Farhad was caught in the line of fire and seriously injured while other members of the gang managed to flee the spot. Farhad was rushed to KoyraUpazila Health Complex where doctors declared him dead at about 9:30pm. RAB members also recovered one revolver, three light guns and 60 rounds of bullets from the spot.¹³⁹

48. **Mosleh Uddin**, a BNP leader of Dhaka city, died in Dhaka Central Jail custody on 06 July 2015. He was arrested at the capital's Kamalapur on June 1st and remanded in an arson case filed during the anti-government movement this year. Jail sources said he fell sick in the jail and he was declared dead at Dhaka Medical College. His nephew Sharif Uddin Bappi said that Mosleh had been suffering from high blood pressure and chest pain and he became sick during the remand.¹⁴⁰

49. On 22 June 2015, an alleged robber was killed during a gunfight with police in Magura Sadar Upazila. The deceased was identified as **Alfu Biswas**, 37, son of Lokman Biswas of Paka village under Sadar Upazila in Magura district. He was a top leader of Purbo Banglar Communist Party (PBCP) and head of a robbery gang, police said. The victim's family, however, said that though once a PBCP activist, Alfu had been leading a normal life for some time now and was picked up from his house on Sunday afternoon by some men in plainclothes.¹⁴¹

50. On 09 June 2015, an alleged leader of a criminal gang was killed and two of his aides were critically injured in a “gunfight” with police in Laxmipur Sadar Upazila. The dead, **Jasim Uddin**, 29, was the son of Shahidullah of Dakkhin Maguri village under the same Upazila.

¹³⁷ <http://www.campuslive24.com/campus.149856.live24/#sthash.ZMCym5yI.dpuf>

¹³⁸ <http://www.prothom-alo.com/bangladesh/article/604132/>

¹³⁹ <http://newagebd.net/144610/man-killed-in-gunfight-in-khulna/#sthash.VQY3XfxU.dpuf>

¹⁴⁰ <http://www.thedailystar.net/city/former-bnp-ward-councilor-dies-jail-custody-108157>

¹⁴¹ <http://www.thedailystar.net/backpage/robber-killed-gunfight-police-101560>

According to police, Jasim was stood accused in at least 30 criminal cases for crimes including murder, abduction, and extortion.¹⁴²

51. On 2 June 2015, Jamaate Islami alleged that an activist of Islami ChattraShibir was tortured to death in the Gaibandha jail by law enforcement agencies. **Shaharul Islam**, an HSC examinee hailed from Gobindogonj Upazila of Gaibandha district. On the 9th May 2015 police detained him on the suspicion of sabotage. He was seriously tortured by law enforcement agencies in the name of interrogation. As a result, he was seriously injured but he has not given any treatment. Finally, Shaharul died due to beating in the remand.¹⁴³

52. On 20 April 2015, a robber gang was killed in a “gunfight” with police in Mirpur Upazila. The deceased was, **Milon Ali** alias “Data” Milon, 42, was the son of Abdus Sattar of Laxmidhardia village in the Upazila. Milon’s family alleged that two officials of the police station Sub-Inspector Abdul Halim and Assistant Sub-Inspector Atiqur Rahman -- picked up Milon on Saturday night and cooked up the “gunfight” story.¹⁴⁴

53. On 8 April 2015, a student of scholars, **Jahirul slam**, has been disappeared when he was going to his private tuition. He goes out from the flat in 27-B Kazi Tula in the city for going to his tuition. His family member and friends searched him in every possible place but not getting him until night. After then, his brother in law sued a general diary at Kotawalithana.¹⁴⁵

54. On 20 February 2015 some unidentified men picked up SSC Examinee **Rifat Abdullah Khan** (17), son of Jamaat-e-Islami Dhaka Metropolitan unit president Moulana Rafiqul Islam Khan, soon after he came out from Uttara High School, after appearing for an SSC examination. The family members contacted RAB, Detective Branch (DB) police and concerned police stations in this regard. All denied the arrest of Rifat Abdullah Khan. According to information from Rifat’s family, they are quite sure that Rifat was picked up by the members of law enforcement agencies. It was later learnt that police conducted some operations with Rifat to some of his relatives’ homes. In the night of February 21, 2015, a senior officer of the Dhaka Metropolitan Police, acknowledging the arrest of Rifat, said that Rifat was in the DB police custody at Minto Road. In the meanwhile, on February 20, DB police Sub Inspector Tofazzal Hossain filed a case at Pallabi Police Station against Rifat under Section 57 (1) and (2) of the ICT Act, 2006 (amended in 2009 and 2013). On February 22 Rifat was taken on 3-day police remand after being produced before the Court. Later the Court extended his remand for four more times consecutively period for almost 16 more days. On 28 March 2015 Rifat was produced in Court again and the Court sent him to jail custody.¹⁴⁶

55. On 12 February 2015, at around 1:00 am, **Nur Alam** (34) General Secretary of Pallabi Thana unit Jubo Dal was taken away from his elder brother’s house in Gazipur by approximately 10 plain clothed armed men claiming to be members of a law enforcement agency. Since then, his position remains unknown. On February 26, Nur Alam’s wife, Rina Alam, alleged in a press conference at the Dhaka Reporters Unity, that while taking her husband away from the house,

¹⁴² <<http://www.thedailystar.net/backpage/gang-leader-killed-gunfight-94792>>

¹⁴³ <<http://www.samakal.net/2015/04/03/128792>>

¹⁴⁴ <<http://www.mzamin.com/details.php?mzamin=NzI0Mzg=&s=OQ>>

¹⁴⁵ <http://www.mzamin.com/details.php?Mzamin=nza4mdu=&s=OQ>

¹⁴⁶ The daily NayaDiganta, 21/02/2015

the armed men told her to contact Joydevpur Police Station in the morning. She contacted the police station, hospital, and DB police office but could not find NurAlam.¹⁴⁷

56. On 31 January 2015, a team of police with leadership OC Salah Uddin of Mirpur Model Thana arrested **Emdad Ullah** from in front of his resident area at 7.00pm. In the late night, he was shot dead by police at Mirpurberibad area in the city early. He was the first-year student of Statistics in Dhaka College. He was president of ward-93 of Islami Chattra Shibir in Dhaka City.¹⁴⁸

57. On 27 January 2015, **Nurul Islam Shahin** (45) was a Professor of Islamic Studies at Islamia College and owner of Padma off-sheet printing press has been killed in Rajshahi. He was an activist of the Jamaat e Islami and president of party's ward no 30. Detective Branch of police picked up him from his press around 9pm.¹⁴⁹

58. On 22 January 2015, **Jisan Ahmed**, 26, son of late Abu Bakar from Laxmipur Sadar Upazila was killed in the name of a gunfight with members of Rapid Action Battalion (Rab) in Daudkandi Upazila of Comilla. He was ex Jatiyatabadi Chattra Dal President. RAB claimed that he is an alleged criminal.¹⁵⁰

59. On 19 January 2015, **Imrul Qayes** (35) a local leader Jamaat-e-Islami, Norail district was killed in the name of a gunfight with Detective Branch (DB) of police at Motijheel in the capital. The dead, was the ward-1 councilor of Narail municipality and also the president of the Jamaat-e-Islami of that ward unit. He was shot nine times and each bullet pierced through the body, said Dhaka Medical College morgue sources after the autopsy.¹⁵¹

60. On 14 January 2015, at around 3:00 pm, men claiming to be members of the Joint Forces conducted an operation in Mithapukur in Rangpur District and picked up **Al-Amin Kabir** (35), his wife **Beauty Begum** (30) and housemaid Moushumi (30) from their house. On January 14, 2015, at around 2:30 pm, men from the Joint Forces wearing RAB, BGB and police uniforms conducted an operation in their area. They attacked Al-Amin's house at around 3:00 pm; vandalized the house; dragged Al-Amin to the courtyard, tied his hands and legs and beat him severely.¹⁵²

61. On 5 January 2015, **Mojiruddin**, 45, A BNP leader was shot dead and some 25 people were injured when BNP activists clashed with law enforcers at Baneswar Bazar of Puthia Upazila of Rajshahi district was the BNP ward unit vice-president of Maria union in Charghat Upazila. He died on the spot around 4:30pm after being shot in the head.¹⁵³

62. According to the information collected by ASK fact finding team, Mehedi Hassan (Shahanur Alam's brother) informed that on 29 April 2014, at about 12:30 pm non, 3 plain clothed med entered **Shahnur's** home, asking about the whereabouts of Rohis' sons. Later, when informed that Shahanur was inside, they asked him to fetch a glass of water by when 6 other

¹⁴⁷ 35 The daily Manabzamin, 26/02/2015

¹⁴⁸ <<http://www.dhakatribune.com/crime/2015/feb/02/shibir-man-killed-mirpur>>

¹⁴⁹ <<http://www.dhakatribune.com/bangladesh/2015/jan/30/family-says-police-killed-jamaat-man-shahin>>

¹⁵⁰ <<http://en.prothom-alo.com/bangladesh/news/58238/Youth-killed-in-RAB-crossfire>>

¹⁵¹ <<http://www.thedailystar.net/jamaat-leader-killed-in-gunfight-60774>>

¹⁵² <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-023-2015/>

¹⁵³ <<http://www.observerbd.com/2015/01/05/64763.php>>

unidentified men entered their home. Then they blindfolded Shahanur, handcuffed him and took him away.

Being panicked, Mehedi and his family members and relatives immediately went to Nobinogor Police Station where they found Shahanur still blindfolded inside the van of RAB-14. On requesting to talk to the OC about Shahanur's abduction, the police throw them out of the Police Station boundary.

Hayes Chairman, who accompanied Mehedi inside the Police Station, went in to negotiate with the ASP (Circle) about Shahanur's release. At this point, the ASP demands 2 lacs Taka for his release. Despite giving the 1 lac taka to them, the Police still did not release Shahanur. Later, at about 7pm, Shahanur was taken to RAB Camp.

In the camp, he was under the authority of Major AZM Sakib Siddique, and was tortured mercilessly during his stay there. At around 8:30 am next morning (30 April) when Shahanur woke up, he was taken to Nobinogor Police Station to be kept under their custody. After this, Md. Abu Taher was called in as an informant for filing a criminal case against Shahanur and several others, dated 30 April 2019, Case No 84, GR No. 252/14, where he was shown arrested. Prior to it, a seize list was also prepared by RAB Camp's SI Md Enamul Hoq Bhuiyan, dated 29 April 2014. He was called upon the Court on 01 May 2014, from where he was sent to jail.

It was when Mehedi went to meet Shahanur in the Jail that he noticed the terrible state his brother was in, where Shahanur told he was tortured and mentioned the horrors he faced in the RAB Camp.

Mehedi further shared that upon the deteriorating condition of Shahanur health, the Brahmanbaria Jail Authority sent him to Brahmanbaria General Hospital, from where he was immediately transferred and admitted to Cumilla Medical College Hospital, on 04 May 2014. When Mehedi went to meet him in the hospital, inside the prison cell, guarded by the police, Shahanur shared in details the torture he faced in the hands of RAB officials, naming Major Sakib Siddique amongst all.

On his return from the hospital that day, he received a phone call from Brahmanbaria Jail at around 7:30 pm, stating that Shahanur died approximately at 05:30pm that day itself in the Prison Cell of Cumilla Medical College Hospital.

According to Senior Advocate Anisur Rahman, Brahmanbaria Judge Court, the Brahmanbaria Senior Justice Hakim resumed the case in the court where he directed the OC to accept the case filed against the accused RAB official and proceed with investigation. Chief Judicial Magistrate, Moshtak Ahmed further directed the RAB official to be withdrawn from the case until further order has been given in this regard. On 8 June 2014, the District Sessions and Judge Court ordered for taking the murder case of Shahanur against AZM Sakib Siddique and conducting an investigation on it.

63. On 16 January 2013, the court handed over the case to the Superintendent of Police of Rangamati district. On 22 December 2013 the court ordered to collect DNA of Kalindi Kumar Chakma and Lal Bihari Chakma, both elder brothers of Kalpana Chakma claiming it as a part of the investigation. This directive is a deliberate harassment to the Kalpana's family to mislead the case. After a hearing on 27 May 2015, the court again set the date of hearing on 16 June 2015.

The court hearing of the case of Kalpana Chakma have been continuing for years together without showing any significant progress in night.¹⁵⁴

64. On 27 July 2011, **Milon** and five other men, branded robbers by locals and police, were lynched by the mob, who were angry over back-to-back robberies and murders in Charkakrha. That morning, Milon was waiting for a cousin in front of the Char Fakira Academy High School when the locals beat him for the first time, suspecting him as a robber, and handed him over to police. Video footages of the incident revealed that the teenage boy was later returned to the violent crowd by several police officials, an act that shocked the nation and the administration. It is to be noted that a police enquiry has found that law enforcers helped a mob beat dead 16-year-old Shamsuddin Milon in Noakhali on 27 July.

A three-member probe body headed by Additional Superintendent of Police Mahbubur Rashid submitted its report on 09 August 2011. The killing took place due to negligence of Akram Sheikh, sub-inspector of Companyganj Police Station, and constables Abdur Rahim and Hema Ranjan Chakma. The trio was suspended on Saturday, on 13 August 2011. Meanwhile, the OC of the station, Rafique Ullah, was suspended on 09 August 2011 for negligence in duty during the incident that left six people, including Milon, dead.

Milon's mother Kohinoor Begum had filed the case at a Noakhali court six days after her son's death accusing some 30 people, including the four policemen, then Union Parishad member Jamal Uddin and Mizanur Rahman, husband of a female UP member, in the case.

However, Companiganj police had recorded it as a regular case, which was transferred to the Detective Branch (DB) of police three months later.

In July 2015, local DB's OC Aatur Rahman Bhuiyan, also the case investigation officer at the time, had submitted the charge sheet to a Noakhali court relieving 31 people, including four policemen. But the court rejected it in January 2016 and ordered the Criminal Investigation Department (CID) of police to investigate further. The CID is yet to submit the final charge sheet even though three years have since passed.

Milon's father Gias Uddin said in 2015 he agreed to withdraw the case after police assured him of giving Tk 10 lakh as compensation and a job for his younger son. But they did not keep their commitment, he added, and thus the case was not withdrawn. Milon's mother alleged that some law enforcement officials had also tried to give her money or gifts to have the case withdrawn. But she did not resort to that path.

Meanwhile, 27 men who were arrested for beating Milon to death after being identified from the video footages secured bail from Court one after another and are currently free. The four accused policemen are still in the security force and currently serving at different parts of the country.¹⁵⁵

65. On 16 July 2011, some plain clothed men held him in Segunbagicha when he was on his way to his dormitory from his relative's house. Then OC Helal Uddin took him to his office and subsequently beat up **Abdul Kader** to make a confessional statement. Kader's refusal to make such a statement resulted in him being hit below the knee with a sharp object. The police then

¹⁵⁴ Chowdhury, Prof. Mong Shano, Chakma, Pallab (edt.). 2015. Human Rights Report 2014 on Indigenous Peoples of Bangladesh. Kapaeeng Foundation. Mohammdapur, Dhaka. PP-154, <<http://www.ctgjournal.com/english/abduction-freedom-and-failure/>>

¹⁵⁵ <http://www.askbd.org/ask/2011/07/27/police-mishandling-shamsuddin-milon-july-2012/>

lodged two separate cases against him of robbery and possession of illegal firearm, and was also shown arrested in another false case filed with Mohammadpur police station for carjacking. When brought to court, Kader's account of torture was recorded by the Magistrate.¹⁵⁶ Kader was then freed on bail on 3 August 2011, 18 days after detention, and was subsequently acquitted from all the charges filed against him in 2012. Helal and 2 other officials from Khilgaon Police Station were suspended from their duty. Then on 23 January 2012, Kader sued the Helal for torturing him. He has been sentenced to 3 years of imprisonment by the trial court which was upheld by the High Court Division, rejecting the Appeal by OC Helal Uddin.

66. **Mr. Jahangir Alam**, a local leader of the Jubo League in Teknaf, the youth wing of the Bangladesh Awami League, was arrested by the Navy in Teknaf, Cox's Bazaar, on 3 May 2007.¹⁵⁷ He was reportedly punched, kicked and beaten by four or five people, dressed as civilians, who then dragged him into a Jeep. He was brought to the hospital for the first time on 3 May at 7:45 pm, before being transferred to the Teknaf Police Station. On 4 May 2007, Mr. Alam was brought back to the hospital for a second time, after his condition had worsened, where he died almost immediately.

67. On 18 March 2007 **Choles Ritchil** (41), S/o- Bonendra Dalbot (60), the popular and very outspoken Garo indigenous leader of Beribadh village under Beribadh Upazila from Modhupur in Tangail district was arrested by joint forces in Kalibari Bazar while returning from a wedding in Mymensingh. While the custody of the army this healthy man died that very day bearing marks of severe torture all over his body. That night his battered and bruised lifeless body was found at the premises of the Thana Health Complex. The police made up a story about how Choles lost consciousness after he fell while trying to escape from his arrestees. But there were telltale marks all over his body implying severe torture. There was very little area on his body that wasn't black and blue. Choles's three companions, Protap Jambil, Tuhin and Piren were also allegedly tortured by the joint forces. Protap, who sustained the severest of wounds, was treated in Mymensingh Medical College Hospital.

Two conflicting statements were received from government spokespersons one was that he had died of a heart attack and the other was that he had died trying to run away from his captors. An unnatural death (UD) case was filed but when Sandha Rani Simsant, Choles' 28-year-old wife went to register an FIR (First Information Report), it was refused by Officers at the Police Station who said that a UD case had already been filed and an FIR was unnecessary. An autopsy was apparently carried out at the Tangail Sadar Hospital but the report has yet to see the light of the Day.

On 19 March 2007 when a representative group from different human rights groups met the police superintendent and assistant police superintendent at Modhupur station, they said that Choles Ritchil was involved with terrorist activities and had a warrant for his arrest. When asked about the circumstances of his death they refused to comment. They acknowledged that an autopsy had been carried out but refused to talk about what it had revealed.¹⁵⁸

Noted, Choles Ritchil was an admired and uncompromising leader of the Garo community in Modhupur. From the very beginning of the controversial Eco-park project which threatened to

¹⁵⁶ <https://www.dhakatribune.com/uncategorized/2014/03/12/du-student-torture-case-deposition-recorded>

¹⁵⁷ <<http://www.omct.org/urgent-campaigns/urgent-interventions/bangladesh/2007/05/d18667/>>

¹⁵⁸ <<http://archive.thedailystar.net/magazine/2007/03/05/sfeature.htm>>

take away the land and livelihoods of the indigenous peoples, his outspoken protests made some forest officials very unhappy. Every time corrupt forest officials who bribed to get a position in Modhupur, tried to cut down trees to sell them off for personal profit, he pounced on them to protect his homeland and the ultimate ecological balance of the country. For these actions cases upon cases were filed against him and the disadvantaged forest officials and army personnel secretly waited for revenge.

68. On 3 January 2004, **Mr. Piren Snal** (28), S/o- Mr. Neden Nokrek (50) of Joynagacha village Under 11 No Solakuri union at Modhupur in Tangail district, Bangladesh, an indigenous rights activist, was killed in police and forest guard firing on a demonstration in which thousands of indigenous villagers and activists were protesting plans to construct an eco-park in Modhupur, which would have threatened the lands and livelihood of the community. Mr. Utpal Nokrek (18), another Garo indigenous youth who was also fired on chest later survive after surgery in Dhaka. 30 others were also injured in the firing.

On that day, thousands of Garo indigenous peoples took part in a demonstration to protest illegal construction of wall in their village. Noted, the Forest Department (FD) started to construct 60,000 thousand feet brick wall under *National Forest Development Project* since 2001. However, the indigenous Garo people claim, the Forest Department violated the term Free-Prior-and-Informed-Consent (FPIC). Besides, the project trying to promote the eco-tourism in residential area of Garo indigenous this would threaten their livelihood in future.

According to the locals, attacks made on indigenous Garo villagers of Modhupur were pre-planned by the forest guard and police. It was learned that more than 8 Garo indigenous peoples were killed and several indigenous women were raped by the forest guard in Modhupur forest. However, the Garo indigenous peoples did not get justice any of these cases. Therefore, thousands of indigenous Garo peoples gather the protest of brick-wall construction. On that day, the forest guard and police stopped the demonstration at *Jalabadha Place* in the Forest. The joint force of police and forest guard lead by OC (Commanding Officer) of Modhupur started fire on the protester when they crossed the barricade. Piren Snal fell on the ground as he was shot. Later, the joint forces took his dead body to the Modhupur police station.¹⁵⁹

69. **Kalpana Chakma** (23), D/o- Badhuni Chakma (60) was allegedly, kidnapped by a group of army and Village Defense Party (VDP) men headed by the local Kajoichari camp commander Lieutenant Ferdous on 12 June 1996 from her home at New Lalyaghona under Baghaichari Upazila in Rangamati District. It has been 23 years since Kalpana Chakma was abducted. After three investigation- by the police, a three member judicial inquiry commission, and the Criminal Investigation Department- and 39 investigation officers having succeeded each other, the government says it has 'failed' to identify her abductors. Still none of the perpetrators has been brought to justice.

The update of the Kalpana Chakma's case was scheduled is for 27 May 2015. The Investigating Officer was scheduled to submit, on this day, an investigation report to the court for the 22nd time since her abduction. However, as the investigating officer failed to submit the report, a new date 16 June 2015 was fixed. But the scheduled date came and went by without submitting any

¹⁵⁹ Gain, Philip (edt.). 2004. Earth Touch (Issue 7th). Society for Environment and Human Development. Lalmatia, Dhaka. PP-04, <<https://archive.thedailystar.net/forum/2007/march/modhurpur.htm>>

investigating reports. It was learned from the assigned lawyer Advocate Juwel Dewan of BLAST that many such dates were, in the meantime, fixed up and as usual they went by before a date on 16 June 2015 was once again fixed up and as usual they went by before a date on 16 June 2015 was once again fixed. Unfortunately, even on that set date the court did not receive any investigation report. A new date 28 January 2016 was again set for producing the investigation reports.

Kalpana Chakma, the then organizing secretary of Hill Women's Federation, was allegedly abducted on 12 June 1996 at mid-night from her home at New Lalyaghona in Baghaichari Upazila under Rangamati District by a group of army and Village Defense Party (VDP) men. On the same night, when Kalpana was kidnapped, the perpetrators also allegedly tried to shoot two of her elder brothers dead in front of their house. Lal Bihari Chakma, one of the elder brothers of Kalpana, was able to identify Lt. Ferdous Kaiser Khan, the then Commander of Kajoichari army camp and Md. Nurul Haque and Md. Saleh Ahmmed, VDP Platoon Commanders. In the face of a tremendous protest, the government formed a 3-member inquiry committee headed by retired justice Abdul Jalil after three months of the incident. The other two members of the committee were Dr. Anupam Sen, professor of Sociology Department of Chittagong University and the Divisional Commissioner of Chittagong division. The committee failed to rescue Kalpana Chakma and even to identify the perpetrators.

Kalindi Kumar Chakma (Kalicharan), elder brother of Kalpana Chakma along with Diptiman Chakma, local UP Chairman, informed the Upazila Nirbahi Officer (UNO) of Baghaichari Upazila of the incident on the same day. After dilly-dallying for long, the police finally accepted the complaint as a case (no 2, dated 12/06/1996, Section 364). On 17 January 1997 the case was transferred to the District Special Branch. Later the case was again transferred to Baghaichari Police Station on 26 December 2004. After 14 years, on 21 May 2010, police submitted the final probe report replete with deliberately misleading contents, allegedly, to save the perpetrators from being accused. Kalicharan, complaint, protested against the flawed probe report of the police.

Later on 2 September 2010, the court ordered the Crime Investigation Department (CID) of police for further investigation of the case. On 26 September 2012, a final report was submitted on behalf of the CID, Chittagong Zone. In the report, the CID argued that they could not find the victim. The complaint again expressed his disagreement with the inquiry report and demanded once again for further investigation.